

# **BORDER SECURITY — 2013**

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## **HEARING**

BEFORE THE

COMMITTEE ON  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE  
ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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**MARCH 14, 2013**

**MEASURING THE PROGRESS AND ADDRESSING THE CHALLENGES**

**APRIL 10, 2013**

**FRONTLINE PERSPECTIVE ON PROGRESS AND REMAINING  
CHALLENGES**

**MAY 7, 2013**

**EXAMINING PROVISIONS IN THE BORDER SECURITY, ECONOMIC  
OPPORTUNITY, AND IMMIGRATION MODERNIZATION ACT (S. 744)**

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Committee on Homeland Security and Governmental Affairs



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# **BORDER SECURITY: MEASURING THE PROGRESS AND ADDRESSING THE CHALLENGES**

**THURSDAY, MARCH 14, 2012**

U.S. SENATE,  
COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:04 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Thomas R. Carper, presiding.

Present: Senators Carper and McCain.

## **OPENING STATEMENT OF CHAIRMAN CARPER**

Chairman CARPER. Well, I am tempted to say the Committee will come to order, but the Committee is in order and so is the audience and our witnesses. We are glad you are here arrayed before us today and thank you for joining us. We are looking forward to your testimony and the hearing. I think we are going to have some votes today. We are working on some important legislation. So we will probably be interrupted a time or two, but we are going to get started and just roll with the punches. It is nice to see all of you.

As Congress wrestles anew with immigration reform this year, the security of our borders will be closely examined. This conversation is likely to be quite different from the one we had 7 years ago when we last debated immigration reform. That is largely due to the substantial investments we have made to secure our borders over the past decade, particularly our Southern border with Mexico.

Despite all of the money and attention we have poured into these efforts, we are still facing what I believe is a lag between perception and reality, much like what happened with the American auto industry. By the beginning of this current century, the quality of the vehicles that Detroit was making had begun to markedly improve, greatly narrowing and then eliminating the quality gap between our vehicles and those produced in Japan and Europe. However, it was only in the last few years that the public really recognized and accepted this fact, allowing the perception of the quality of American vehicles to catch up with the reality of the quality of those vehicles.

Likewise, despite the tremendous improvements that have been made in border security over the past decade, the public's perception of these improvements has lagged at times behind reality. Ac-

According to one of our witnesses today, Doris Meissner, we will spend \$18 billion this year enforcing our immigration and customs laws. That is more than we will spend on all other Federal law enforcement, the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the U.S. Marshals, and the Secret Service combined. Just think about that. And since 2000, the Border Patrol alone has more than doubled in size, and its funding has almost quadrupled. This enormous investment reflects just how important effective border security is to our Nation.

Last month, I was able to visit portions of the U.S.-Mexico border in Arizona with one of our colleagues, Senator John McCain. We were joined there by Congressman Mike McCaul of Texas, who chairs the House Committee on Homeland Security. Later that same week, I toured other parts of that border in Arizona with their former Governor, now Secretary of Homeland Security, Janet Napolitano. Based on what I saw there, I believe that our efforts, and especially those of the dedicated men and women who work along the border, are paying off for the American taxpayers, and they need to.

As it turns out, illegal immigration has dramatically decreased. Some experts estimate that more undocumented immigrants now leave the United States each year than enter unlawfully. Border Patrol apprehensions of undocumented immigrants, our best current measure, albeit an imperfect one, are at their lowest levels in decades.

Now, some parts of these decreases may be due to the great recession we have endured, which reduced the number of jobs available for immigrants. But I believe that we could attribute a lot of this success to the security gains that we have made which deter people from crossing the border, whether there are jobs here for them or not.

Having said all that, I returned from the border wondering if apprehensions is the metric we should be using to measure our program and our progress in border security and to guide our future investments there. I am not convinced that it is. I am convinced, however, of the wisdom of the old adage, you cannot manage what you cannot measure. And the truth is that we need to refine and strengthen the metrics that we use to determine how secure our borders and our ports of entry (POE) are to ensure that our security efforts are both effective and as cost efficient as possible.

This is especially necessary when the budgets are tight—and they are, and we are literally debating that here today in the U.S. Senate. We simply cannot afford to keep ramping up resources for the border at the rate we have in the past. We must be strategic with our investments, and we can be.

When I was in Arizona with my colleagues, I heard a number of frontline agents say that we need to focus our efforts on giving them technologies and tools that can serve as force multipliers. That includes a wide range of cameras, sensors, and radars that can be mounted on trucks or put on fixed towers to help the Border Patrol deploy its agents more effectively. More aerial surveillance assets, including blimps and aircraft such as the C206, are also needed, and that is not a real exotic airplane. It is a pretty basic

airplane, but it is a good platform. But C206 are also needed to help the Border Patrol identify people crossing the border illegally and track them until agents can catch them.

We also need to ensure that the investments we have already made are fully utilized and not wasted. I was surprised and, frankly, disappointed to learn that the Border Patrol has four drones deployed in Arizona but only has the resources to fly two of them, and even then, they cannot fly them every day of the week. We can do better than that.

Another critical issue is the growing sophistication of drug smuggling networks along the border and the problems that they create for the Border Patrol and for our country. Agents in Arizona told me that the cartels actually put spotters with encrypted radios on top of mountains in our country to help smugglers on the ground avoid law enforcement. We need to do a better job of using our resources, including our drones and other aircraft, to find these spotters and to send agents to arrest them.

Stopping these criminal networks must be a high priority. Finding the criminals that guide drugs and immigrants across the border can be like finding a needle in the haystack. If we can reform our broken immigration system to open up more effective legal channels for those looking to come to our country for economic or family reasons, I believe we can make that haystack smaller. This will allow law enforcement to focus on the truly bad guys.

Finally, I would also like to note that a lot of the smuggling seen on the Southern borders is being pushed to the ports of entry. These border crossings have received far less attention and resources than the Border Patrol over the past decade, but they are just as important to our security and to our economy.

Additionally, local mayors that I met with all told me that the lack of investments in border crossings is causing long wait times, which hurts their communities and our country as a whole. We must make sure that our ports of entry are secure, but we also need to ensure that they are effective conduits for the legal travel and trade that are essential to our national well-being and, frankly, that of the Mexicans.

Ultimately, I hope that we can help the Department of Homeland Security (DHS) be so effective at securing our border that we can begin to shift some of our resources toward staffing and modernizing our ports of entry. We need to.

In closing, I hope that today's hearing facilitates a frank conversation about how border security has improved since the last time immigration reform was debated and helps us to identify what more needs to be done. I support the efforts underway to reform our immigration laws. Looking ahead, I believe that this Committee can contribute significantly to the conversations that are taking place now by informing them and ultimately enabling the Congress and our President to hammer out a thoughtful and effective immigration policy for America in the 21st Century.

And we are going to be joined by some of our colleagues here. Dr. Coburn is going to be offering a couple of amendments on the floor today, and I know he is tied up with that right now. I know he will be joining us, and some of my other colleagues will, too.

I want to introduce our witnesses. As they say about the President, he does not really need an introduction, and Doris, I am not sure that you do, either, but I am going to give you a short one anyway. Doris Meissner, Senior Fellow and Director of the U.S. Immigration Policy Program at the Migration Policy Institute (MPI). From 1993, Ms. Meissner served in the Clinton Administration as the Commissioner of the Immigration and Naturalization Service (INS). Welcome.

Our second witness is Mr. Edward Alden. He goes by “Ted.” Mr. Alden is the Bernard Schwartz Senior Fellow at the Council on Foreign Relations. Bernard Schwartz, that is a good name. Give him my best. He specializes in U.S. economic competitiveness. Mr. Alden has done extensive work on border security metrics and is the author of the book, *The Closing of the American Border*, which examines U.S. efforts to strengthen border security in the aftermath of the September 11, 2001, terrorist attacks.

Our final witness is Dr. David A. Shirk, Director of the Trans-Border Institute and Assistant Professor in the Political Science Department at the University of San Diego. Dr. Shirk conducts research on Mexican politics and U.S.-Mexican relations and security along the U.S.-Mexican border and has many publications focused on these issues.

We are delighted that you all are here. This is going to be a great hearing. The vote is at 11:15. Let us try to stick close to seven minutes each. If you run a little bit over, that is OK. If you run way over it, that is not.

Doris, you are our lead-off hitter. Take it away. Thank you. Welcome.

**TESTIMONY OF HON. DORIS MEISSNER,<sup>1</sup> SENIOR FELLOW AND DIRECTOR, U.S. IMMIGRATION POLICY PROGRAM, MIGRATION POLICY INSTITUTE**

Ms. MEISSNER. Thank you very much, Mr. Chairman, and thank you for the opportunity to be here this morning.

Chairman CARPER. Our pleasure.

Ms. MEISSNER. My statement is based on my personal experience with border and immigration enforcement when I served as Commissioner of INS. It is also based on a recent MPI report that I and colleagues coauthored called “Immigration Enforcement in the United States: The Rise of a Formidable Machinery.” The report describes for the first time the totality and evolution since the mid-1980s of the Nation’s modern day immigration enforcement machinery. My written statement focuses on the border enforcement element of that, which I will summarize as follows.

For more than 25 years, there has been strong and sustained bipartisan support for strengthened immigration enforcement. As a result, the level of immigration enforcement spending in the United States now stands at a record high. You just summarized the key points on that spending.

It has now reached \$17.9 billion, larger than the other law enforcement agencies combined that you recounted. That amount is 24 percent higher than the amount spent for those other law en-

<sup>1</sup> The prepared statement of Ms. Meissner appears in the Appendix on page 37.

forcement agencies, and, of course, the lion's share of that funding has been for border security.

Since fiscal year 2005, the budget of Customs and Border Protection (CBP) rose from \$6.3 billion to \$11.7 billion. That is an increase of about 85 percent. The agency's staffing grew by 50 percent, from 41,000 to 61,000-plus. That includes a doubling in the size of the Border Patrol to 21,000-plus agents since just 2004.

Border enforcement encompasses a broad sweep of responsibilities at and between air, land, and sea ports of entry. Enforcement along the Southwest land border with Mexico represents the most heavily funded and publicized element of border enforcement. Resource infusions there have led to notable results. Historic highs in staffing, technology, and infrastructure have combined with historic 40-year lows in apprehensions. Border Patrol apprehensions fell by 78 percent between fiscal year 2000 and 2012, from more than 1.6 million to just 365,000. The greatest drop, 53 percent, has occurred since just 2008. Beyond significantly fewer apprehensions and individuals arrested, net new migration from Mexico has fallen to zero.

These are dramatic numbers. They represent a top-line story of changes that have been years in the making. To me, two aspects of the changes stand out as particularly significant.

The first is a new strategic plan that the Border Patrol announced last spring that has received little notice. It calls for risk-based enforcement to supplant its earlier goal of building adequate staffing, technology, and infrastructure that began in 1994, when I was Commissioner. The plan says that the Border Patrol's resource base has now been built, allowing for targeted enforcement responses to be carried out through information, integration of effort, and rapid response. It depicts steady State funding and refining of programs alongside increased cooperation with other law enforcement entities, especially Mexico. This is entirely new and unprecedented.

Second, these sustained resource infusions have allowed for significant changes in border enforcement practices. Instead of the storied revolving door along the border, the Border Patrol is employing enforcement tactics that impose consequences beyond simple voluntary return on those it arrests. According to the Border Patrol, the purpose of its new tactics is to break the smuggling cycles and the networks by separating migrants from smugglers and increasing deterrence of repeat entries. As a result, whereas 90 percent of border enforcement had been voluntary return, the reverse is now true and the large majority of those apprehended face a consequence, such as lateral repatriation, expedited removal, or Operation Streamline, for example. Remarkably, CBP refers more cases to the United States for prosecution in district courts than does the FBI.

Now, this is not to say that border enforcement must not continue to be improved. Technology initiatives that have played a major role in transforming the border have also often been disappointing. The story of Secure Border Initiative (SBI-net) is a case in point. Meeting the physical infrastructure needs at land ports of entry has not kept pace with advances in documentation and screening developments. Space limitations prevent important new

technologies from being fully utilized. Thus, the potential for land port of entry inspections to be a weak link is a continuing enforcement challenge.

There is much disagreement over how to measure what constitutes a secure border. Current measures rely primarily on inputs, such as resource increases, not on outcomes and impacts, such as the size of illegal flows, the share of the flow apprehended, or recidivism rates. CBP and DHS must do better in demonstrating border enforcement effectiveness.

At the same time, the combination of increased border enforcement, shifting trends in Mexico, and job loss in the U.S. economy has led to new facts on the ground that have important policy and political implications for immigration debates. Today's border enforcement is a multifaceted, sophisticated enterprise. It has become institutionalized through its national security links and resource investments in vital capabilities that demonstrate the Federal Government's ability and will to vigorously enforce the Nation's immigration laws.

While imperfect, border security has been significantly strengthened in all key dimensions. It would be strengthened even further by enactment of immigration laws that both address inherent weaknesses in enforcement beyond border security, such as employer enforcement, and that better rationalize immigration policy to align with the Nation's economic needs and future growth and well-being. The dramatic strides that have been made in border security constitute a sound platform from which to address broader immigration policy changes suited to the larger needs and challenges that immigration represents for the United States in the 21st century.

Thank you, Mr. Chairman.

Chairman CARPER. Thank you. Great testimony. I wish all of my colleagues were here to hear it, but a lot of people are watching on television and a lot of staffers are here, so we thank you for that. Thank you for all your work over the years, as well.

Ms. MEISSNER. Thank you.

Chairman CARPER. Mr. Alden, we are happy you are here. Please proceed.

**TESTIMONY OF EDWARD ALDEN,<sup>1</sup> BERNARD L. SCHWARTZ  
SENIOR FELLOW, COUNCIL ON FOREIGN RELATIONS**

Mr. ALDEN. Thank you, Chairman Carper. I am delighted to have been invited to testify today and it is great to be here with Doris Meissner and David Shirk.

Chairman CARPER. Do you all know each other?

Mr. ALDEN. We do.

Ms. MEISSNER. Yes, we do.

Mr. ALDEN. Yes. It is a group of people who I think have worked on these issues for a while, Doris longer than I have, but——

Chairman CARPER. Really? [Laughter.]

Have you all testified together before?

Ms. MEISSNER. No.

Mr. ALDEN. No.

<sup>1</sup> The prepared statement of Mr. Alden appears in the Appendix on page 50.



Chairman CARPER. OK. This is your debut, so this is good. Thank you.

Mr. ALDEN. The testimony that follows, as I was saying, is drawn from research I have conducted with two distinguished economists, Bryan Roberts, who is here with me today, and John Whitley, on measuring the effectiveness of border enforcement. Dr. Whitley is a Senior Fellow at the Institute for Defense Analyses and the former Director of Program Analysis and Evaluation (PA&E) at the Department of Homeland Security. Dr. Roberts is Senior Economist at Econometrica and was formerly Assistant Director of Borders and Immigration for Program Analysis and Evaluation at DHS. I appreciate your generous introduction.

In a 2011 article in *Foreign Affairs* which was entitled, "Are U.S. Borders Secure: Why We Do Not Know and How to Find Out," Dr. Roberts and I noted that by every conceivable input measure, as Doris' testimony went over, the number of Border Patrol agents, miles of fencing, and drone and surveillance coverage, the border is far more secure today than it has ever been. And yet according to a new poll by the Hill Newspaper, nearly two-thirds of Americans still believe the border is not secure.

One reason for public skepticism is that the U.S. Government actually releases very little information about unauthorized border crossings. Currently, DHS makes public only a single relevant number, which is the total arrests or apprehensions made by Border Patrol in the vicinity of the border, numbers we are all familiar with. Multiple arrests of the same individual, it should be noted, are counted multiple times. And as Doris testified, apprehensions at the Southwest border have indeed dropped dramatically over the past decade, from more than 1.65 million in fiscal year 2000 to 357,000 at the Southern border in fiscal year 2012. This is lower than any year since the early 1970s, which is really before illegal immigration became a big policy issue. But other enforcement metrics related to illegal entry at the ports or between the ports or through visa overstays are not reported.

DHS has recognized the inadequacy of the apprehensions number and has said it considers it, "an interim performance measure." Yet despite promising to produce and report alternative measures, it has failed to do so, leaving this Congress to assess the current State of border security in the absence of data that would greatly assist that effort.

The outcome that is of most concern to the U.S. public is the gross inflow of unauthorized migrants, or in other words, how many people escape detection, enter and remain in the United States successfully. While economic conditions in the United States and in the major sending countries of Mexico and Central America are obviously the biggest drivers of illegal migration, the two primary enforcement variables that affect gross inflow are the chances of being caught, that is, the apprehension rate, and the consequences of being caught.

If we look between the land ports of entry, where much of the focus has been, there are three low-cost methods available that can be used to measure gross inflow and apprehension rates: Migrant surveys, recidivism analysis, and what is called known flow data.

Migrant surveys, which have been carried out for several decades by academic groups, ask those who have attempted illegal entry how many times they were arrested on a particular trip and whether they were ultimately successful in entering the United States or gave up their attempt. The survey data, however, unfortunately, is not available in a particularly timely fashion. It tends to be backward looking.

Recidivism analysis is possible because Border Patrol has captured fingerprints of those it apprehends for more than a decade now so that it can identify accurately those caught multiple times. Under certain assumptions, this analysis allows for accurate estimates of the apprehension rate. The difficulty is accounting for those who are arrested, sent back across the border to Mexico, and are deterred and do not make subsequent attempts. I explain that more in my written testimony.

Finally, known flow data is based on sector-by-sector observations by the Border Patrol. Each sector has long kept such records, which include estimates of the number of people who successfully evaded the Border Patrol, so called "got-aways," or are observed to retreat back into Mexico, so-called "turnbacks." The difficulty here is that some percentage of illegal migrants will enter successfully without any observation by the Border Patrol.

As our research shows in greater detail, each of these methods suggests considerable progress has been made in improving the effectiveness of border enforcement over the past decade. Migrant surveys suggest that the apprehension rate has trended upwards from a low of about 20 percent in 1990 to a current rate of somewhere between 40 and 50 percent.

The recidivist method, depending on the assumptions one makes about deterrence, similarly suggests an apprehension rate in the 40 to 50 percent range. It could be higher than this. As Doris mentioned, Border Patrol's current strategy calls for consequence delivery to replace the historic practice of voluntary return of those arrested back to Mexico. We are talking about Mexicans here, who are the bulk of those trying to enter. These consequence programs are intended to discourage multiple reentry attempts. That is their whole purpose. But DHS has yet to release any data to evaluate their effectiveness.

Finally, the known flow methodology, which was the subject of an extremely important Government Accountability Office (GAO) report in December, suggests that as many as 80 percent of those crossing illegally are apprehended. Evidence on illegal entry through the ports is scarce. In theory, it should be possible to measure and report apprehension rates and gross inflow through the ports. DHS implements a program of randomized secondary inspection, where certain vehicles are pulled aside on a random basis, that could be used to generate data on the probability that vehicle passengers attempting unauthorized entry succeed in getting through primary inspection. It is not known if DHS has made such estimates. They certainly have not released them publicly.

Another relevant measure, though it does not directly relate to the Southwest border, is the issue of visa overstays. A commonly accepted estimate is that more than 40 percent of unauthorized migrants arrived on a lawful visa and then overstayed. DHS currently

has the capability to provide a reasonably accurate estimate of the number of visa overstays from each country, but again has not released this information to Congress.

The key outcome performance measures for any law enforcement organization are the rate at which the laws under their jurisdiction are broken. For U.S. immigration law, this means the numbers and rate at which individuals enter illegally and/or reside in this country unlawfully. Such data are crucial for designing more successful policies in the future. The U.S. Government is currently incapable of giving data-informed answers to some of the most basic policy questions in immigration management, such as would new legal programs for lower-skilled migrants reduce the incentive to migrate illegally to the United States? Would increased workplace enforcement do more to deter illegal immigration than increased border enforcement? Where would expenditures be more effective? Where are the vulnerabilities for increased illegal migration the greatest? At the ports of entry? Between ports? Visa overstays? We do not have good evidence.

In an effort to produce more policy-relevant data and improve ongoing oversight, Congress should require at least the following as part of any forthcoming immigration legislation. First, that the Administration develop a full set of outcome performance measures for enforcement of immigration laws. There is a table in our written testimony that suggests what those should be. Congress should make the development and reporting of such measures mandatory for the Administration and tie this to future appropriations.

Second, performance data should be used in the ongoing management of illegal immigration. DHS should establish an early warning system that monitors all unauthorized inflows, along with economic, demographic, law enforcement, and other trends that may affect these outcomes. This is a critical part of a risk management strategy as the Border Patrol has adopted.

And then, finally, oversight must be strengthened. Relevant Committees in Congress should hold regular hearings to review the early warning system data and forecasts, examine trends and outcome performance measures, and assess DHS proposals for adjustments to its strategies as conditions on the ground change.

Thank you. I appreciate your indulgence in going over time and I would be happy to respond to questions.

Chairman CARPER. That was well worth the time it took. Thank you.

Dr. Shirk, please proceed.

**TESTIMONY OF DAVID A. SHIRK, PH.D.,<sup>1</sup> DIRECTOR, TRANS-BORDER INSTITUTE, UNIVERSITY OF SAN DIEGO**

Mr. SHIRK. Thank you very much, Mr. Chairman. Thanks to you and the Committee for allowing me to speak to you today. I have been studying security issues on both sides of the border for the last 10 years at the Trans-Border Institute based at the University of San Diego's Joan B. Kroc School of Peace Studies, and also, I have been a long-time resident of the border region and I am personally affected on a daily basis by the choices made here in Wash-

<sup>1</sup> The prepared statement of Mr. Shirk appears in the Appendix on page 62.

ington about our border with Mexico, so I am very pleased to speak in that regard.

I have been studying security issues on both sides of the border for the last 10 years at the Trans-Border Institute based at the University of San Diego's Joan B. Kroc School of Peace Studies, and also, I have been a long-time resident of the border region and I am personally affected on a daily basis by the choices made here in Washington about our border with Mexico, so I am very pleased to speak in that regard.

Living in San Diego for most of the last two decades, I have witnessed the dramatic transformation of the border region that my two colleagues have described as a result of more concentrated enforcement measures to prevent unauthorized migration, smuggling, and terrorism. The dramatic increases in the number of Border Patrol agents on the ground has already been mentioned. But I would simply underscore that this arguably makes the U.S.-Mexico border the heaviest guarded border between two peaceful, interdependent trading countries in the world. The border itself has been physically transformed, especially in major populated areas where multi-billion-dollar high-tech equipment and fencing are used to detect and deter both immigrants and criminals.

By some measure, as has been mentioned, these efforts have resulted in real security improvements along the border, particularly when looking at inputs. But also, I want to speak to some of the consequences for us living in the border region.

Even amid the economically and demographically driven decline of Mexican outbound migration in recent years, we have seen more effective deterrence, detection, detention, and deportation of unauthorized immigrants than at any other point in our history. We have produced safer conditions in terms of roads, lighting, communications systems, and emergency back-up for Border Patrol and Customs agents working in these zones, as well as lower crime rates for border communities, businesses, and residents like me.

In many places, this has improved the quality of life for people living along the border insofar as it has resulted in less fear and property damage for businesses, ranchers, and residents, and greater protection for our parks and recreational areas located near the border.

However, this border security buildup has come at a significant cost, as has been noted. The operational costs of border enforcement have increased greatly, from billions to tens of billions of dollars annually. More sophisticated border controls have resulted actually in more sophisticated criminal organizations, greater threats for immigrants, residents, and Government agents working in border zones. We have also produced more dangerous conditions for unauthorized immigrants crossing the border, contributing to more than 6,000 migrant deaths since 1995.

In weighing the cost of border security, we should also consider the lengthy delays resulting from slow procedures and inadequate infrastructure, which results in lost economic opportunities for both countries. Last year, commercial, vehicular, and pedestrian crossers at the border accounted for over a half-a-trillion dollars in business with Mexico, our second-largest trading partner. Border wait times, solely in the San Diego-Tijuana region, which is in urgent

need of further funding to complete infrastructure upgrades, cost both countries around \$6 billion each year, according to the San Diego Association of Governments.

Impacts on Mexican border cities, where tens of thousands of immigrants are returned without coordination with Mexican authorities, include greater crime and violence as those individuals try to struggle to adapt to their deportation conditions.

Astonishingly, as has been noted, despite all the effort and cost, we have few reliable indicators to determine whether these border security measures are effective in deterring undocumented immigration. Almost all of the most commonly used metrics of border security effectiveness are proxy indicators. Analysts measure the number of unauthorized immigrants living in the United States based on surveys and approximations. Analysts measure the flow of illegal immigrants into the country by the number of arrests made by Border Patrol agents. Ultimately, we do not have accurate, up-to-date estimates of the size and composition of the U.S. unauthorized immigrant population or the number of unauthorized immigrants coming into the United States.

These estimates need to be more regularly updated and publicly disseminated to give a clear picture of the overall effectiveness of immigration control measures, including those that go beyond the border. Greater research and analysis is also needed to approximate the proportion of visa overstays compared to unauthorized border crossers that comprise our undocumented population, as well as the countries of origin, so we can get a sense of how important Mexican and Central American migration is as a phenomenon overall.

The U.S. Government, I think, should also work more closely with the Government of Mexico and Mexican research agencies to examine statistics on Mexican outbound migration and returnees, repatriation, as they say in Mexico, as well as surveys of migrants, as has been mentioned, that provide a better understanding of their motivations and experiences.

Authorities do have some measures that can be used, as well, to evaluate the performance of U.S. border control agencies in terms of process. For example, border officials collect data on the likelihood of detention after detection, again, this idea of got-aways or turnbacks. But the methodology for gathering these data varies from sector to sector, so developing a standardized methodology for the collection of these and similar performance metrics would help officials to identify areas in need of improvement along different sectors of the border and redeploy resources accordingly to those zones.

On a final note, my colleague at the Wilson Center, Eric Olson, and I have argued for better security through wider gates. This may seem counterintuitive, but if Congress can achieve a long overdue reform of our immigration system, this would reduce the incentives to violate our immigration laws and thereby increase our ability to control the border, because it would reduce the size of the haystack that our Border Patrol agents have to sort through. In that sense, conditioning immigration reform on tougher border security may be the wrong sequence of policies.

Thank you very much.

Chairman CARPER. Well, thank you. That was really excellent testimony. We appreciate each of your statements.

We have been joined by Senator McCain, and I mentioned, Senator McCain, before you got here how valuable our visit to your border, your State's border with Mexico, was for me.

I am reminded as I prepared for this hearing and listened to testimony today of a couple of thoughts. One, is the border more secure? Can we do better? Everything I do, I know I could do better. It is one of my core values. I think that is true for all of us. Everything we all do, every Government program we have, I suspect we can do better. And while real progress has been made along our border with Mexico, can we do better? Sure, we can do better. I like to say, the road to improvement is always under construction, and it is in this case, as well.

One of my take-aways from the time I spent with Senator McCain and Congressman McCaul and later that week with Secretary Napolitano was that you look at the areas between the ports of entry, where you have deployed large numbers of ground forces, Border Patrol, but also a lot of emphasis there on a fair amount of technology, fencing and other things, we are doing a better job. We are clearly doing a better job. If you look at the ports of entry, especially the ports of entry where we have some new technology, and we visited at least one of those, very impressive operations, but there are also huge back-ups, impeding trade going North and going South.

One of the take-aways for me from that visit was if some of the technology that we are using is being used effectively to help direct our troops on the ground, our Border Patrol on the ground to the places they need to go and to better deploy those assets and deploy them in a more timely way, but I was down there looking for force multipliers. And one of the great examples is the drones. We have four drones on the border. Two operate at any time. They can operate for about 16 hours. They operate 5 days a week. What happens the other 2 days? What happens with the other two drones? What happens when the wind is blowing more than 15 knots? What happens when maintenance brings down the drones and they cannot fly? We have to figure out how to resource all four drones. If we are going to have four drones there, we need to be able to resource them.

We have pretty good technology with, some people call them aerostats, but they are really blimps, the kind of sensors that we can mount on these blimps. Put them up in the air, they can be there whether the wind is 15 knots or 35 knots. They can survey what is going on. They can help us better direct our resources.

Ideally, what I would like to do—and the C206, an aircraft that, frankly, I had not heard of. It is an older plane, small plane, but it is one that is a great platform and a very cost effective platform compared to the drones. You can fly for extended periods of time. It would be a great way to help better deploy our assets on the ground. It is a force multiplier.

But those are the kinds of investments I think we need to be making, and if we make those investments, we will make the—how many thousand troops or Border Patrol do we have on the ground? It is not 18,000. What is it?

Ms. MEISSNER. Twenty-one-thousand.

Chairman CARPER. Twenty-one-thousand, to help make them more effective.

The other thing we have to do, we have these folks who are sitting up—the bad guys sitting up on the mountains up in our country really spying and being able to talk to other bad guys who are trying to bring either drugs or people into the country illegally. We ought to take them out. We ought to be smart enough to find out where they are and to be able to go take them out. If we could do that, that would make our efforts, I think, a whole lot more successful. It is probably a lot more difficult than it sounds, but that is part of what we need to do.

I am going to ask a question or two and then turn it over to Senator McCain for—he has a number of questions—for at least 10 minutes, and then we will bounce back and forth. But, Mr. Alden, you spent a whole lot of time on the metrics and how do we measure, actually measure success. It is not easy. It is not an easy thing to measure.

But I want to ask the three of you to just have a conversation with us about what might be a consensus about a metric or a series of metrics that are more reasonable, more effective, more appropriate. And, Doris, Dr. Shirk, I do not care who goes first, but react to what Ted Alden has said to us. What do you agree with? What do you maybe not agree with, and what—

Ms. MEISSNER. I would endorse every one of Ted's statements. You asked us at the outset, if we know each other, or if we have worked together. Certainly Ted and I have, along with others that are in the university community as well as analysts that Ted mentioned.

This issue of metrics is absolutely paramount at this point and DHS has been far too cautious. CBP has been very risk averse where measures that already are available are concerned. I understand the caution. We all recognize what the issues are surrounding them. But one of the things with measures and one of the things with data is that it has to be used. It has to be tested. It has to be validated, both inside closed circles within Government agencies but also by the external community. And it is past time where that should be done more fully.

I think we would all agree that if there was one measure that we could have that would make all the difference, it would be the measure of the flow. It is what we in the trade call the magical denominator. We have the numerator. That is apprehensions. We need to know what those apprehensions represent as a percentage of the overall flow.

We have that flow number in glances. The Congressional Research Service (CRS) has been able with select pieces of requests of data to get a sense of it. We know that the Border Patrol sector-by-sector has a reasonably good picture of it, lots of it because of the technology that you described and cited.

The standardization of definitions on what is to be counted, et cetera, is not where it needs to be. That all needs to be done. But some of this can happen in an iterative way if things begin to be shared and this becomes a really sincere analytic effort to try to find out what the answers are.

One of the most important things we learned from one piece of research that CRS did is that the apprehension numbers, 365,000 a year ago, actually means just 269,000, or maybe it was 267,000, individuals. That is another very interesting subset of this. As compared to the arrest actions, how many real individuals does that represent? Just in those two things, the flow and how many individuals are represented by the apprehension numbers, we would know a great deal more about effectiveness than we do. Those, I would argue, are within reach.

Chairman CARPER. Oh, good. Thanks. Dr. Shirk.

Mr. SHIRK. I would agree, as well. I would just note that both Doris and I are on the advisory committee for the paper that Ted is working on for the Council on Foreign Relations precisely on this topic, and I think it is excellent work.

I would say that one of the things that he noted, the fact that we can isolate with the apprehension data whether or not individuals are recidivists using the thumbprint identifier code that is available on that—that could be made available on that database is an example of how data should be made available to researchers so that we can do more sophisticated analysis and give you a better understanding of what the actual trends are using those data.

I would also simply point out that if you—one metric, thinking about numerators and denominators, is in 1990, when we had about—late 1990s, when we had about 9,000 agents, they were making about 150-plus arrests per agent, on average, using the apprehension data that we have. If you flash forward to today, when we have 20,000-plus agents on the border, they are arresting about 15 undocumented immigrants per agent.

So that is actually, ironically, a good thing. We want a low number of arrests to the number of agents that we have deployed. Ideally, we would like to have fewer Border Patrol agents and fewer arrests, meaning that flows would be low and there is a lot of deterrence. So if we can reduce manpower at the border while increasing some of those force multipliers that you mentioned, that would be the ideal.

Chairman CARPER. All right. Thanks very much.

I am reminded, before I turn it over to you, Senator McCain and I spent a whole lot of time in the Navy. I admire his service—I know we all do—and salute him for it. The time that he spent in—and he was in much more difficult circumstances than I was. I flew in a Navy airplane called a P3. We used to hunt Russian submarines all over the world. We also flew a lot of missions off the coast of Vietnam and Cambodia, low levels trying to detect a little infiltrator probably trying to get into South Vietnam to resupply the Viet Kong. And in the South China Sea, there was a lot of surface traffic, and a lot of surface traffic going into Hong Gai Harbor. We flew a lot of missions down along the Straits of Majorca, between the Indian Ocean and the Pacific Ocean.

And this was 40 years ago and we had the technology then to literally track scores of little boats electronically, to assign targets to them electronically, and to be able to track them, scores of them at the same time. This was 40 years ago. And if we could do that 40 years ago, I think we ought to have the technology today, whether it is on a drone or a C206 or an aerostat, to be able to



do something with not just little boats trying to infiltrate into South Vietnam, but people and groups of people. We ought to have the technology to be able to do that.

John, thank you very much.

#### OPENING STATEMENT OF SENATOR MCCAIN

Senator MCCAIN. Well, thank you, Mr. Chairman, and I want to thank you for taking the time from a very busy schedule to come down to the border, spend time with our agents, with our ranchers, with all of those who really live this issue on a day-to-day basis. I wish more of our colleagues could have the opportunity or seize the opportunity as you did, and I thank you for doing that. It is a long way from Delaware and I thank you for being there. It is obvious that you learned a lot, as I did, and I appreciate it very much.

I thank the witnesses. Doris, it is nice to see you again, and thank you for your outstanding work, and thank you all for your continued contributions to this discussion we are having on comprehensive immigration reform.

Doctor, I agree with you that we have to have comprehensive reform. You ended your remarks that the best way to relieve this pressure is probably through comprehensive reform. I know that all of our witnesses would agree with that. And part of it is—of any comprehensive immigration reform is verifiable identification of people who apply for jobs. When the magnet is not there anymore, then fewer people are going to come to this country illegally.

But I also, Doris, want to emphasize that it is beyond my understanding why the Department of Homeland Security would not publicly disclose the information that is necessary to all Americans as to this issue of flow and how many we apprehend and how many are turned back and you have motivated me, if we pass comprehensive immigration reform, that will be one of the provisions of the legislation, that this information needs to be made public to all Americans.

I guess for all three of our witnesses, that is probably the best way to—or do you know a better way of ascertaining the effectiveness rate than apprehensions and turnbacks? Is there a better way to achieve these metrics than that, or is that probably the best way to do that? Doris.

Ms. MEISSNER. As far as I know, those are the key ideas, and David's addition of recidivism and repeated entries off of the Automated Biometric Identification System (IDENT) data is what we have. And that is what we need. I mean, it is not that what we have is too primitive. We have the wherewithal to get those numbers. Now, when we have them, they may raise other questions that one needs to dig further on. But having them would put us way far forward from where we are today in understanding.

Mr. ALDEN. I would say, as I spelled out in the testimony, we really believe that the three methods you need, it is a place to start. There could be improvements to all of them. One is these Border Patrol observations, and you have had a very good picture of that in this GAO report in December, which is the first time all of that data has been made available widely to Congress and the public. A very important contribution.

We need a similar kind of transparency with respect to the recidivist data, and DHS has this information on multiple arrests. They can use it, as I said, with certain assumptions to help make calculations of flow and apprehension rates.

And then, finally, we need to make more serious use of these migrant surveys. Now, there are problems there in terms of who carries it out. It is done by academic groups. There would be concern if the Government got directly involved in that area. But the surveys are very valuable in helping us understand what the migrants themselves are doing, what motivates them, what deters them. It would be very interesting if we finally get serious workplace enforcement to have questions in surveys, were you deterred from coming to the United States by the fact that you did not think you could get a legitimate job? That is an important piece of information that we need to know as part of ongoing management.

So I think we really are moving from this position of a big resource buildup to ongoing law enforcement and management of the problem, and I am hoping that this legislation will help facilitate that turn because I think that is where we are. Both for good objective reasons, because that is where we need to be, but, I think, also for budgetary reasons. There are just limits to how much we can continue to spend on enforcement.

Senator MCCAIN. Dr. Shirk.

Mr. SHIRK. I would only add, first of all, if the Government does not want to release the IDENT data, at a minimum, doing some analysis and presenting that through GAO or some other source would be an alternative. But it seems to me that there is no apparent reason for why this and similar data are not released.

Another example that I would use on another security area would be seizure data. We do not have publicly available information about, say, drug seizures or drugs and cash on a port of entry level and in between port of entry level across the entire border. But that would be a useful metric, as well, as we think about border security's effectiveness on other measures, such as drug trafficking.

On the scope of the problem, we have been using this number of 11 million undocumented immigrants, but that is an old number and it is a number that has not been backed up by new survey data. And so I would only underscore that the survey data is very important for getting a better understanding of the size and composition of what some researchers call lakes and streams, right, the population and the people moving into and out of that population. And, unfortunately, that is the kind of work that needs to be done by academics and think tanks, and funding is critical for that kind of research. It is often—academics seem like we are not doing a whole lot in the ivory tower, but ultimately, when funding is available to do this kind of research, policymakers get the kind of information that they need to make decisions.

Senator MCCAIN. In 1986, I was around here and we passed legislation that gave, "amnesty" to three million Americans. There is a bitter taste in a lot of people's mouths because there was a commitment at that time, an assurance that we would never have to address this issue again. So this obviously emphasizes the importance this time around of border security.

And I agree with the witnesses. I am not sure we need additional people. But I also believe that we have learned a lot of lessons from Iraq and Afghanistan on detection, on surveillance capabilities, that have been a quantum leap. In 2007, we did not use drones. We had dirigibles, you know, blimps. And so I agree with you. We need to use that additional technology to increase it.

But I also think that we need to have a measurement, probably through effectiveness rate, so that we can assure the American people that we have about 90 percent effective control of the border and take steps that are necessary to achieve that. Now, because of the advances we have made, when you look at the nine sectors, except for the smallest sectors where less than 30,000 apprehensions are not that important, we are only looking at three sectors that are not at 90 percent effectiveness. So I do not think it is that hard to achieve that 90 percent.

But at the same time, I think I have an obligation, not just to the people of Arizona, but to the people of this country, to assure them that not only will we enact comprehensive immigration reform, but we are not going to come back and face this same third wave again some years from now. I would appreciate your comments on that, maybe beginning with you, Doris.

Ms. MEISSNER. Well, I certainly do not think that one wants to establish an effectiveness rate in statute. But it is absolutely important at this point to do what Ted suggests in his testimony: Establish in the statute expectations from DHS of the kind of data, and the managing of that data against circumstances on the ground that we want to see where border control is concerned.

I also think that in terms of the 1986 experience and its lessons that although this debate is similar in that it is returning to the issues of border enforcement, employer enforcement, et cetera, it is also very different, not only because of what we have learned, but the way things have changed. And I would point to a couple of changes.

The most important are changes that are taking place in Mexico. I mean, Mexico, of course, has been the source of the largest share of illegal immigration now for 40-plus years and there is actually a historic set of changes taking place in Mexico that is part of the new picture where illegal immigration to the United States is concerned. That has to do with dramatic reductions in the birth rate and fertility rate in Mexico, the age curve in the population, so that less people are actually working age, the growth of a middle class, and solid economic growth in Mexico because they got their fundamentals right in the 1990s in terms of the economy.

So even though one does not want to say that there is not going to be illegal immigration from Mexico—there will be—it is a very different picture in terms of dynamics.

Senator McCAIN. Well, it is very different in other ways, too. One is an increased flow from other parts of the hemisphere, not just from Mexico, and the dramatically increased sophistication of the drug dealers as they bring drugs across our border, so—

Ms. MEISSNER. Well, and that is right—

Senator McCAIN [continuing]. So I respectfully disagree with you that the problem is lessened. In fact, as far as drugs are concerned, it is greater. There are people sitting on mountaintops in Arizona

today guiding drug cartel people bringing drugs across our border. There is a dramatic increase in other than Mexicans (OTMs) that are trying to come across our border, as well. So I respectfully disagree with your rosy assessment, and I believe it needs to be—

Ms. MEISSNER. No, I—

Senator McCAIN. Let me finish. And I believe that it needs to be written into law so that the American people can know whether there is an effective control of our border. I owe them that obligation, particularly the citizens of my State.

And I am out of time, so could I go to you, Ted.

Mr. ALDEN. I just wanted to caution against—and I can understand why for public assurance this is very important, but I want to caution against looking for a single number. I mean, Chief Michael Fisher of the Border Patrol put out this—

Senator McCAIN. We have to have some measurement.

Mr. ALDEN. But we can have multiple measures.

Senator McCAIN. OK.

Mr. ALDEN. We do not simply need one measure. I mean, Chief Fisher put out this 90 percent effectiveness ratio and that comes from this known flow methodology. The problem with that, as I said, is that known flow almost certainly underestimates the number of people coming in illegally because we simply do not know what it was that the Border Patrol did not observe.

The second danger with focusing solely on that number is that in many ways, it is the most subjective of these different measures that I talked about because it depends on Border Patrol observations. And you want to be able to assure the public that these numbers are not being gamed by Border Patrol agents who are looking to hit a certain target in order to satisfy the Congress or satisfy the public.

That is why we believe very strongly that multiple measures, including ones like the recidivist data that, for all of the challenges, are more objective—so we know when we have apprehended people multiple times—that you have to use these data together to try to come up with a complete picture.

I would caution against establishing a target effectiveness ratio and then saying that is what we need to hit, because I think there is a real danger that effective long-run performance management will be jeopardized by focusing on a particular—

Senator McCAIN. How do I assure the people of my State that the border is under effective control?

Mr. ALDEN. You have to get them to understand that there are different ways to look at this. The data is all pointing in the same direction. The truth probably lies somewhere between these poles and we need to continue making it better. We are going to manage this on an ongoing basis. The Congress is going to do oversight. We are going to question the Administration and the Border Patrol aggressively. We are going to have a laser-like focus on continued improvement in the future, not on one particular magic number that we are going to try to hit.

I think there is a real danger of that in terms of what you are trying to do in reassuring the public that this is not going to be 1986 all over again. I mean, people are smart about this, right? They understand—

Senator MCCAIN. No, they are not.

Mr. ALDEN. Well, they should be, right? This is——

Senator MCCAIN. Well, maybe they should be.

Mr. ALDEN. This is called——

Senator MCCAIN. Maybe they should be, but they are not.

Mr. ALDEN. This is hard stuff, right.

Senator MCCAIN. Maybe they should be, but I can tell you, they are not.

Mr. ALDEN. OK. Well, as my——

Senator MCCAIN. I have town hall meetings all over my State.

Mr. ALDEN. Fair enough.

Senator MCCAIN. You may have seen some of them on television.

Mr. ALDEN. I have. I understand the challenges.

Senator MCCAIN. We have spirited debate and discussion——

Mr. ALDEN. I understand the challenges.

Senator MCCAIN [continuing]. And they want a secure border, and they have that right.

Mr. ALDEN. Absolutely.

Senator MCCAIN. Dr. Shirk.

Mr. SHIRK. Senator, I have studied drug trafficking and drug-related violence in Mexico very carefully over the last several years and I agree with you that they are more dangerous and more deadly than at times in the past.

I do think that that is all the more reason that we need to redirect flows of migrants to legal entry points so that we can reduce the size of the haystack and focus on the real threats that we face at the border, as you have tried to——

Senator MCCAIN. I have promised to. That is the intent of this legislation, and I appreciate that.

Mr. SHIRK. As you have tried to do, sir.

I also would simply underscore that I also think we can help Mexico's economy continue to grow and benefit in the process. Mexico is our No. 2 most important destination for U.S. exports and I would like us to keep sending more iPods and more U.S. goods to Mexico as their economy improves and their purchasing power improves. Anything we can do to facilitate that, I think, would be a positive thing.

But you are also right that we need to do more to work with Central America, which has been losing large numbers of its migrants, the OTMs, as you say, the other than Mexicans, who are coming North to the United States. And if we can work with them as we have worked with Mexico in the last few years, I think that would be positive. Thank you.

Senator MCCAIN. I thank you. I have to go, Mr. Chairman. I thank the witnesses. And again, Mr. Alden and Doris, I need to have something to assure people that they are not going to live in fear, as some of them are right now in the Southern part of my State, or believe they are. And so this is a very tough part of this issue. And I do not think we could ever return to 1986 because of the dramatic improvement we have made in border security. But I can see a relaxation that might cause—and there is always—one of the problems with these Central American countries is their economies are terrible, as opposed to the Mexican economy. So we

need to work with the Mexicans on improving their Southern border.

But I need to assure the people of my State and this country that we are not going to revisit this issue again 10, 15, or 20 years from now. So there has to be some assurance to them, no matter what parameters we use to secure our border.

You have added a lot to this debate and you have been helpful to me as we are in these discussions and hopefully coming up with a product that Mr. Bismarck would not call laws and sausages. I thank the witnesses.

Ms. MEISSNER. Senator, if I might just say very quickly, I am sure, on behalf of all of us, we would be very pleased to work with you on those issues.

Senator MCCAIN. Thank you very much. We have in the past, in the Coolidge Administration. Thank you. [Laughter.]

Chairman CARPER. Thank you.

Mr. Alden, in your testimony, you note that the U.S. Government is incapable of giving data-informed answers to key questions that I think a number of us believe will be crucial when we try to figure out what more needs to be done.

I want to go down the panel and ask each of you to help me address three questions that I am going to ask. They are short questions, and I am going to ask the question and then ask—we will start with you, Dr. Shirk—but ask you and then Mr. Alden and Doris to respond.

But the first question is, would increased workplace enforcement do more to deter future illegal immigration than increased border enforcement?

Mr. SHIRK. I think, ultimately, yes. The data, however, I think as others will point out, does not make it possible for us to accurately determine exactly how significant the workplace enforcement effects are, but my personal leaning is that I think that that would be more of an effective measure, because the problem, I think, is that we always try to use the border as a solution to problems that do not originate at the border, whether that is with drugs or with undocumented immigration. We do not deal with the point of contact or the point of origin of the problem, the point of sale or the point of consumption.

And in my mind, if we are not doing something to address the point of departure for undocumented immigrants, making their economic opportunities better at home, and we are not dealing with employers and making it easier for employers to ensure that the people that they hire have legal authorization to work in the United States, then anything we do in between is not going to be particularly effective.

Chairman CARPER. All right. Thank you. Mr. Alden.

Mr. ALDEN. I would just like to note quickly that Dr. Whitley has joined us, as well. I am delighted to have him here with us.

Chairman CARPER. Do you think he would raise his hand and smile at us? How are you?

Mr. ALDEN. Thank you. I think, logically, one would have to say yes, because border enforcement, beginning with the work that Doris did back when she was INS Commissioner, has developed substantially over the last two decades, as we have talked about

today. Workplace enforcement is still really in its infant stages. I mean, e-Verify covers, what, 7 percent of employers now. There are identification problems. One has to believe that the potential gains are much bigger in that space than they would be for increased border enforcement. There has been some academic work that suggests that in a tentative way. It is hard to get a firm handle on.

But one of the things that we would want to do if, as a result of this legislation, workplace enforcement becomes more and more stringent, is to begin to monitor that. I mean, in migrant surveys, for instance, you would want to ask people, were you deterred from coming to the United States by the fact that it was going to be difficult for you to find legitimate work? Currently, if you ask people that, the answer is, no, that is not a deterrent factor at all. And so that would be an important piece of data to try to get a sense of what kind of impact these measures have.

I mean, there is no perfect workplace enforcement, either. One of the results will be more gray market work. More people will work for cash under the table. But there is no question that it could have a big impact in reducing the ease with which unauthorized migrants can find employment. But we would want to, again, as part of an ongoing process, monitor the impact of that as carefully as we can in terms of illegal migrant flows.

Chairman CARPER. All right. Thank you. Ms. Meissner.

Ms. MEISSNER. Let me add one other element to what has already been said. I agree with what has been said. The other element here, of course, is that about 35, 40 percent of the people in the unauthorized population are probably there because they are overstaying visas. They have nothing to do with coming across the Southwest border with Mexico.

Chairman CARPER. So they started out on—

Ms. MEISSNER. So they started out as a foreign student or as a visitor, or whatever, and they overstayed their visa. Again, we do not know the proportion because the Government does not put data out on it, so the research on that comes from the most recent Pew Hispanic Center, probably 5, 6 years ago. But let us just say it is 40 percent. That percentage is likely to go up the more that border enforcement on the Southwest border succeeds because less people, arguably, would be crossing the Southwest border and becoming part of the resident unauthorized population than would be overstaying visas.

The best way to deal with the visa overstay is the employment point. That is the most logical intervention, because those people, too, are overstaying largely for purposes of working in the United States. So employer enforcement is the most direct way to get to a very large chunk, and possibly a growing chunk, of the unauthorized population, to the extent that it continues.

Chairman CARPER. All right. Thank you.

My second question I want to ask of each of you, and maybe we will reverse the order here, reverse the flow, and Ms. Meissner, I am going to ask you to go first, but here is the question. Would new legal programs for lower-skilled migrants reduce the incentive to migrate illegally to the United States? We have had some discussion of this already, but I would like to just ask that directly and hear from each of you.

Ms. MEISSNER. Yes, it would. I think that is one of the main lessons coming out of 1986 and the Immigration Reform and Control Act (IRCA) that we did not do. We thought of it as a closed box. We did not foresee that the issues of migration would be continuing issues in our labor market. That is far more acute now, however, than 25 years ago because of our own demographics, the aging of our society, the global labor market and global economy in which we live and compete. Immigration and immigration tied to our labor market needs is clearly a part of our future as an economy and as a competitive economy.

Therefore, it is essential that we have ways of bringing those people to this country across all skill spectrums— across the entire skill spectrum—in legal ways. And so we need to do that as part of immigration reform, but it does need to be combined with effective enforcement, because no matter what, there will be more demand to come to the United States than there will be legitimate opportunities. So good future flow provisions along with solid enforcement is the best we know of where to go with this.

Chairman CARPER. All right. Thank you. Mr. Alden.

Mr. ALDEN. There is an interesting historical example, and credit Dr. Roberts for the research on this for our paper. If you look back in the 1950s, there had been a big spike in illegal migration in the early 1950s, actually, a million apprehensions, I think it was in 1953 or 1954. As a response, the Eisenhower Administration did two things. They expanded the quota of the Bracero Program dramatically, which was the farm worker program at the time. Now, I acknowledge all of the real human rights, labor rights issues with the Bracero Program. I am not advocating Bracero.

But you look historically. A big expansion of the Bracero Program coupled with very tough enforcement, what was infamously known as Operation Wetback, which was rounding up lots of people living without status in the United States, either sending them back to Mexico or forcing them into the Bracero Program to work as authorized Bracero workers.

What we see in the apprehensions data is it plunges in the years after, down to a level of roughly 80,000 annually. During this period of time, the Border Patrol is monitoring conditions in the agricultural economy very carefully to try to assess where might there be spikes in people coming over. That whole period through the end of the Bracero Program in 1964, we have very low levels of apprehensions. The numbers are typically fewer than 100,000 per year. After the elimination of the Bracero Program, those numbers start to spike again and we have the modern rise.

So I think there is an interesting historical experiment, then, which for all the problems with Bracero, which for all of the problems with the way enforcement was done in the 1950s—again, I am not advocating these—seems to indicate that a combination of legal paths for lower-skilled workers plus tough enforcement does, in fact, reduce illegal migration substantially.

Chairman CARPER. Dr. Shirk.

Mr. SHIRK. I agree with everything that has been said, for the most part. I just would point out that the challenge, I think, on workplace visas is that there is enormous complexity to the number of workplace visa types that we have. We have the A-1. We have



high-skilled—I am sorry, the H-1. We have H-2A and H-2B. We have numerous different categories of visas and often there is a cost for the employer to contract workers to take them in as temporary workers.

As a result of that, we tend to have larger firms taking advantage of workplace visa opportunities, bringing people in from Mexico or other places. But for smaller firms that have maybe one or two people that they need in the back of a kitchen or something like that, the cost of doing all the paperwork and paying the costs associated with those workplace visas are relatively high, which means that it is much easier to go to the black market or the gray market around the corner, hire some guy off the street. If workplace visas were made more flexible and accessible so that smaller companies could take advantage of them, I think that would be a huge benefit.

In particular, with regard to the border region, I would like to point out that we have a category called the B-1 visa and iterations on that B-1 visa which allow border residents from Baja, California, and other border States in Mexico to cross over for the purposes of shopping and for visits with family, et cetera. They are not allowed to work. But the reality is that you have large numbers of people crossing the border with their B-1 visa and soliciting employment in the informal sector. In my mind, it would make much more sense and would greatly facilitate the border economy as a whole to actually make those B-1 visas also eligible for temporary labor in those border communities.

Chairman CARPER. OK. Good.

Third question, and this, I am going to start with you, Mr. Alden, if we could, and ask our other two witnesses to respond, as well. But the third question is where are the vulnerabilities for increased illegal migration the largest? At the ports of entry? Between the ports? Or through visa overstays? Mr. Alden.

Mr. ALDEN. I would say—I would agree with Doris on visa overstay. Let me start there. I think that is likely to become a bigger vulnerability in the future. I think we have good tools to deal with it. We have a reasonably functioning biometric entry and biographic exit system. The Department of Homeland Security knows pretty accurately on a country-by-country basis how many people are overstaying. They, unfortunately, have not yet shared that information with the Congress, which is important. In fact, if you want to revise the Visa Waiver Program, which is a kind of separate issue, you need that data.

We do not do simple things with visa holders advocated in a paper I wrote with an immigration attorney, Liam Schwartz, last year. We should send e-mail notifications. If you are here on a visa and your visa is going to expire, there should be an e-mail notification from the U.S. Government 30 days or 15 days or whatever before your visa is going to expire warning you that you need to make arrangements to go home or to renew your visa to remain lawfully. There is a lot of social science evidence that people tend to obey the law when they think somebody is watching. We do nothing as a Government to let people know we actually expect them to abide by the terms of their visa. Easy stuff that we do not do on that front.

Chairman CARPER. Do you have research that indicates whether or not these folks that are here illegally or overstay their welcome, that they ever text?

Mr. ALDEN. Whether they what? Sorry.

Chairman CARPER. Use texting.

Mr. ALDEN. Are they—— [Laughter.]

Chairman CARPER. We have a great program called Text for Baby that Johnson and Johnson helped us develop. This is an aside, but I will just mention it to you. And a lot of mothers, young mothers included, who do not in some cases have all the information, the knowledge about how to raise a little baby and get them started in this world, we have a new program called Text for Baby and we can text a new mom every day or whenever their kids are due for a check-up or immunizations, all kinds of stuff. It seems to work. It is cost effective. We call it Text for Baby. I mean, we could have Text for——

Mr. ALDEN. Text for Visas.

Ms. MEISSNER. Text for Going Home.

Mr. ALDEN. It is just, like, easy, simple stuff that we should be doing.

Chairman CARPER. Right.

Mr. ALDEN. Ports of entry, I think, are a bigger vulnerability than we recognize. If you look at the migrant survey data, it suggests that anywhere between about 10 and 25 percent of people say they actually got into the United States through the ports of entry. I think we are underestimating the vulnerability there.

There is also a really good commercial argument. I mean, if you are improving staffing and efficiency at the ports of entry, you get a two-fer. You get better security, so you are identifying and apprehending more people that are trying to come illegally or trying to smuggle drugs. But you also get greater efficiency, because, generally, the ports are understaffed, at least the busiest ones. We have these long lines.

So unlike increases in the number of Border Patrol, where, really, the only purpose it serves is to stop illegal activity, at the ports, you get both stopping illegal activity and facilitating legal activity. So I think a deeper analysis of that would show that money is better spent at the ports of entry than it would be on additional enforcement between the ports of entry.

Chairman CARPER. Thank you. Dr. Shirk.

Mr. SHIRK. I will just build on that point about the ports of entry. One of the reasons why you see such a significant proportion of migrants crossing through the ports of entry has to do with the fact that they frequently resort to using false IDs or IDs falsely, and that problem, I think, would be alleviated if we expanded the use of Trusted Traveler initiatives at ports of entry.

In the San Diego-Tijuana region, we estimate that somewhere around 40,000 to 60,000 of people who are crossing at the ports of entry do so on a daily basis. They come up for their own purposes and they go back home across to Tijuana on a daily basis. That means that the new faces at the border and the scrutiny that is needed should really be focused on the folks who are coming maybe for the first time, who are often in the situation of maybe they are using some false ID that was provided to them by a migrant smug-

gler. And so expanding and encouraging greater use of Trusted Traveler programs at the ports of entry, I think, would be a way of getting at that problem.

But on visa—sorry. I do think that the overstays is the main area, the one, as Doris said, that we have the greatest purchase to gain in terms of trying to find ways of limiting opportunities and preventing people from falling into the trap of overstay. Tracking incoming and outgoing people on a more regular and effective basis would, I think, do a lot to address that problem.

Chairman CARPER. OK. Doris, do you want to share a thought or two on this question?

Ms. MEISSNER. I mean, my vote goes for the POEs, as well. I am very concerned about the ports of entry, and we talk about that a great deal in this report that we did a little while ago.

And, really, the ports of entry on the land border—the air ports of entry are working reasonably well. The U.S. Visitor Immigrant Status Indicator Technology (VISIT) Program and the IDENT Program is fully deployed in airports and that has been an enormous advance since 9/11.

But the land ports of entry just deal with these enormous volumes of people, the vast majority of which are properly coming in and out of the country. So, I mean, arguably, they have the most difficult job, because they are dealing with the full range of reasons that people are coming, whereas anybody that the Border Patrol sees is doing something wrong, by definition. It may be really wrong, like a drug smuggler. It may be less threatening if it is purely somebody coming across illegally. But the ports of entry are much tougher.

So that is a major infrastructure job from the start, because you need to have space to handle these volumes of people that are coming in, largely for the right reasons. And that is a multi-year build-up. It is, I believe, money that would need to go to the General Services Administration (GSA), not to any of the immigration agencies. So you have a whole different set of players and planning and execution that needs to be put into place.

But, I would also say, in the way that David points out when we started really working on the border in 1994, it was a very different place physically from what it is now. I mean, tons and tons of earth has been moved and lots and lots of brush has been cleared, and roads have been built, et cetera. So you have to just start at some point. And this infrastructure improvement, particularly on the Southwest border with Mexico, is essential to our economic future. It is not only an enforcement issue. It is an economic issue for the country, the United States, for Mexico, for the region. And if we begin down that path, we will do much, much better on enforcement because we have the technology. We just cannot deploy the technology.

Chairman CARPER. Good. Thank you.

A couple more questions and we are going to start a vote and send you on your way.

One of the goals of this hearing is to discuss what more needs to be done to secure our borders. Obviously, we are making progress. What more can be done? You all mentioned in your testi-

mony we invest heavily in securing the border between the ports of entry. I said that in my opening statement.

During my trip to Arizona with Senator McCain and Congressman McCaul and Secretary Napolitano, I heard a number of front-line agents say that what they really need is more technology and more air support. I talked about some of that earlier. They also said that the ports of entry really need our attention and our help, and I heard some of you say that here this morning, as well.

So my question for each of you is this. Let us drill down on this a little bit. What more do you think we need to do along our borders? A simple question, probably not a simple answer. But what more do you think we need to do along our borders? Doris, would you like to go first?

Ms. MEISSNER. Well, let me start with talking about the technology. I do not know myself what additional technology we need. But I do know, based on a lot of experience, that I place a high value on what the Border Patrol itself says it needs in technology. I think the Border Patrol has become very savvy about its understanding of how to use technology. I do think that they need outside encouragement, let us say, on some of the issues that we have talked about, where metrics measurement, et cetera, are concerned.

But where the kind of technology that works for them is concerned, I would put a great deal of faith in what they say, particularly because they know the nature of the environment in which they are working. You talked about it in terms of the times the drones can and cannot be used, the weather conditions, the temperature, the winds. All of these sorts of things are reality that is difficult to put into the equation from the outside, but they know those realities.

So the technology issues, I think, are always going to be there and we need to always be improving and investing in them.

Beyond that, where the ports of entry are concerned, and to add to our earlier discussion and my earlier comments, the ports of entry also need to be far more rigorous in their management of what it is that they do. They are very individualistic, port to port, in the definitions that they use for their enforcement actions. They do not have nearly the kind of data gathering intensity that is the case with the Border Patrol. So on the ports of entry, it is not only an issue of their infrastructure. It is also an issue of their operations and their data gathering, which really do need to be more sophisticated and have a much better sense of standard norms and discipline.

Chairman CARPER. Thanks. Mr. Alden.

Mr. ALDEN. This is one of those questions that I am a little reluctant to weigh in on because I cannot pretend to know more than the Border Patrol does about what technology will be effective in that environment.

And I do think if you look over the history of legislation in the past, there is a tendency for Congress to micromanage at that level. I mean, it seems to me the right role is to say, we expect you to be able to carry out your law enforcement mission. We want the arrows to be moving in the right direction. We want to measure what is happening. We need you to tell us what you need to perform that mission, and then we as a Congress need to decide what

we are willing to pay for it, I mean, how much are incremental improvements in apprehension rates or in reducing illegal—how much is that worth to us as a country?

I think that is the right sort of discussion for Congress to be having, and obviously, you need to listen and the Administration needs to listen to what the needs of the agency are. But I really think the focus should be on results more than on inputs, and then let the experts, the guys who work in that region on the ground—and the girls, the people who are on the front line decide.

Chairman CARPER. Hold it right there. That is a great answer. Thank you. Dr. Shirk.

Mr. SHIRK. I would simply say that I think the more we can help the Border Patrol and Customs to focus on the harms rather than the known harmless, the more they will be effective.

Chairman CARPER. Say that again.

Mr. SHIRK. The more we help them to focus on the harms than the harmless, in other words, the large numbers of people who are crossing legally, for example, and who cross on a regular basis, we know—we see them every day. In many cases, the folks that I live with in my community say, yes, I see the same Border Patrol agent every day, but I have to go through the same 2-hour line or 3-hour line every morning to get across the border to come shop or study, et cetera, in San Diego. So helping to move those people through more efficiently will allow the Border Patrol and Customs to focus on those less-familiar faces that need a second look.

And so if I had an extra billion dollars to throw at this problem, I think I would first focus on alleviating legitimate flows by expanding the use of Trusted Travelers programs.

Chairman CARPER. Good. Thanks.

During the recent trip I talked about earlier, we met with several Mayors from towns at or near the borders who said that their communities are being hurt by incorrect perceptions of the border. They say people hear about drug-related violence in Mexico and assume it is permeating nearby towns on the U.S. side. In fact, crime statistics show that those U.S. communities are among the safest in the country. It is a great irony, is it not?

On the other side, we met with some ranchers who had a very different story to tell, and Senator McCain was there with us and he has met with them, I know, many times before. But they feel, understandably, still feel threatened by cross-border smuggling. Not all, but a number of them do.

How can we assess the safety of communities near the Southwest border? And that would include the communities where people have the nice big ranches, hundreds of acres, thousands of acres, and those are some of the folks that say they still do not feel safe. Not everybody, but a number of them do not. How can we assess the safety of communities like—including those near the Southwest border? Mr. Alden.

Mr. ALDEN. I am going to defer to Dr. Shirk on some of this because of his experience in the region. I do not think some of the metrics help you get at that. I mean, there are going to be particular places along the border where you have property owned by Americans and they feel under siege because their property has be-

come an entry route for smuggling of drugs or of unauthorized migrants.

I think that has to be dealt with locally. There has to be close cooperation between the Border Patrol and those individuals to try to address those problems. I do not think any of the really big picture stuff that we are talking about here today helps you solve that problem.

The perception problem, I agree. I mean, I have spent a lot of time in the cities along the border. Those are very safe places. I have never felt nervous. I think the residents of those places do not feel nervous. I think that is a push back on the perception issue, and I know Secretary Napolitano talks about this a lot. I think that is important.

But, you know, there is no perfect solution here. You are always going to have places where people feel vulnerable, that are preferred routes for whatever reason, and I think those need to be dealt with seriously but on a local basis. It is not a 30,000-foot view.

Chairman CARPER. OK. Thank you. Dr. Shirk.

Mr. SHIRK. Three of my graduate students—Marisol Martinez, Sara Nettleton, and Jamie Lenio—worked with me on a project funded by CRS to assess the problem of spillover violence a couple of years ago, and what we found—one of the things that we found is that, actually, the further you get away from the border, the less safe you are because of the very low crime rates we see in U.S. border cities. You are almost three times as likely to be murdered if you go away from the border toward any of the other top 300 largest cities in the United States.

But I think one problem with dealing with some of those specific experiences of the ranchers and other folks that live along the border and do have to deal with very real problems and fears is that how we have discussed and measured spillover violence is not very intellectually honest. The official agency definitions for spillover violence that are used by the U.S. Government do not count drug trafficking organization (DTO)-on-drug trafficking organization violence. So if there is a shootout between two drug traffickers in the San Diego Mall, that would not count as spillover violence as long as they did not hit an innocent civilian.

So I think that we need to think carefully about what kinds of problems we are actually seeing. But the net data and what we have available through Uniform Crime Report (UCR) crime data suggests that border communities really are quite safe.

The one metric on which I would like to see more data or be able to try to get at the problem a little bit better is kidnapping, which is not something that is measured in a uniform way throughout the United States and by the FBI. So that is an area where we could really do a better job of assessing some of the problems in Senator McCain's state.

Chairman CARPER. OK. Thank you. Doris.

Ms. MEISSNER. I do not really have anything to add. I would subscribe to what Ted said about these being largely local issues. And I know that is not comforting to the people that are experiencing them, but I also do know that the Border Patrol has a very strong history and can work effectively locally, particularly with the kind

of staffing it now has, on addressing some of those issues. So I think that we just have to recognize that, at the end of the day, this will always be imperfect, but the overall picture that has been painted here is the prevailing condition of the border. And it is a far cry from what it used to be.

Chairman CARPER. Well, we are just about at the finish line here. It has been illuminating and timely and helpful.

When Senator McCain was here, he mentioned the OTMs, the other than Mexican folks who are trying to come to this country illegally. We are seeing, actually, I think, some encouraging developments in Mexico. Their economy continues to strengthen. They have a growing middle class. I think the leadership of the country is trying to do their best to quash the illegal drug cartels and to just restore the kind of safety in their own country and kind of lawful order that you would hope for in every country.

One of the folks that we talked to down on the border in Arizona was one of the Mayors or sheriffs. He talked about a balloon. You squeeze it in one place and it pops out in another, and I think we may be seeing some of that with respect to the countries to the South of Mexico.

But one of those countries is Colombia, way down South, and that was a country that a lot of people were ready to give up on 20 years ago. I heard a lot of people call it a failed nation, or very close to that. I think it was Colombia where, I do not know, 25 years ago, some criminals rounded up, I think, most of the Supreme Court, took them into a room, and killed them all, about 11 of them. If that is not a failed nation or close to it, I do not know what is.

Colombia is a changed country today and it is a much safer country and a much more profitable and prosperous country today. And I think we are seeing some encouraging turn-around in Mexico, as well. There are a bunch of countries in between Mexico and Colombia, particularly just South of Mexico, that I think may need our help, not just in terms of law enforcement help, but just help to strengthen their economies so that their folks will want to stay there and work there and not feel the need to leave, and also to try to, as best we can from a distance, to promote more vibrant democracies and civil liberties.

The other thing I want to mention is improvements in—we talked about force multipliers and we talked about being able to fully resource the drones and have better intelligence packages and sensor packages on the blimps or the dirigibles or the aerostats we use and have better radar on the ground in parts of the Arizona border and all. Those are all important, but also to continue to improve the intelligence that we are getting from Mexico and from other countries to the South of Mexico that will enable us to better deploy our resources is important.

I am told by pretty knowledgeable people that we are better at that than we used to be and those countries are better at it than they used to be, as well. And the question is, can we do better? Sure, we could do better, and we need to do better in all these things that we are talking about.

When I leave a hearing like this, I always take some take-aways with me, and some of the best take-aways I get are right at the

end of the hearing when I ask—you give an opening statement. Witnesses are always asked to give an opening statement. I usually like to ask my witnesses to give a closing statement, and especially in this case. I always look for consensus on difficult issues, and I think we have a fair amount of consensus with this panel.

But just maybe give us a minute, about a minute take-away. You can reiterate or reemphasize, underline some of the things that you have said or heard, maybe something you have learned or that has been reinforced for you.

But, Dr. Shirk, I will start with you. Give us sort of like a mini-benediction here, something to take home with us from church.

Mr. SHIRK. Well, I would simply reiterate, I think as the discussion has unfolded about immigration, there has been some talk about making border enforcement, border security, a precondition for immigration reform. And I want to caution against that, because as we have said multiple times during the hearing, it may be that reducing the pressure on the border by allowing for an expanded flow of legal migrants into the country by reforming our immigration system would actually make it easier for the Border Patrol to do their job and make us safer along the border.

A couple of other very quick comments in response to what you just said. I mean, Colombia is much safer today, but it does still have a homicide rate that is 50 percent higher than Mexico's and the most internal refugees of any other country outside of Sudan. So one of the things I worry about for Mexico is that the legacy of the violence that we have seen in recent years will continue and we need to be alert to that problem.

And to the extent that the situation in Mexico appears to be stabilizing, we need to be careful about how we interpret what is happening. It is not clear that less violence necessarily means more law enforcement, and the possibility that the drug cartels and drug markets are stabilizing under a new equilibrium could mean we will have continued challenges as we address the drug problem between our two countries in the future.

Chairman CARPER. Thank you. Mr. Alden.

Mr. ALDEN. Thank you. I just have three concluding thoughts. One, I think that there is absolutely no question that border enforcement in all its facets is vastly better, vastly stronger, than it was 5 years ago, 10 years ago, 20 years ago. No question, we have seen big improvement there. So I think that has to be the starting point.

My second point would be effective border enforcement, border security, does not mean 100 percent. We are not going to stop everybody who wants to get in illegally. We are a big country. The great historical example here that, again, Bryan Roberts dug up, you can calculate roughly an apprehension rate for the cold war border between East Germany and West Germany. So this was a border with roughly—

Chairman CARPER. Say that again. Say that sentence again.

Mr. ALDEN. The cold war border between East Germany and West Germany—

Chairman CARPER. OK.

Mr. ALDEN [continuing]. This was a border with roughly three times the staffing we have on our border now, shoot to kill orders,



barbed war, no man's land, floodlights. The apprehension rate on that border, roughly 95 percent. About a thousand people a year still managed to get across that border to freedom in the West.

So if people are really determined to cross borders, you are not going to be able to stop them entirely. So we have to be realistic in what our goals are. Absolutely, we can do better. But perfection cannot be the goal here.

And then the final point I would make is that I do not believe we are going to see the sort of big resurgence in unauthorized migration that we saw in the 1980s and the 1990s. The demographics do not lean that way. The economics do not lean that way. But we as a country are going to need to be serious in an ongoing way about managing the problem of illegal migration.

There is going to be pressure going forward. There are always going to be people in the world wanting to come here. And we just were not serious about that as a country in the 1980s and until well into the 1990s. And so that means seriousness about enforcement and real legal options for people to come to take the pressure off of the Border Patrol and other people who are aiming to keep people from coming illegally. So this is an ongoing issue we are going to have to deal with as a Nation.

Chairman CARPER. That was a very nice summary. That was a good benediction. Two of them, in fact.

All right, Doris. The pressure is on.

Ms. MEISSNER. The pressure is on.

Chairman CARPER. They are tough acts to follow.

Ms. MEISSNER. I think where the Southwest border is concerned—all of our borders, but the focus is always on the Southwest border in this debate—we simply have to recognize that this is a very dynamic place and it will be so into the foreseeable future. So we cannot be complacent about what we have achieved. But at the same time, we have a very strong new reality, and set of improvements on which to build.

And so recognizing that it is always going to be dynamic, we will have to react in different ways. We will have to be measuring, be adjusting our operations in response, et cetera, et cetera. That has to be a given. But at the end of the day, right now, that ability to enforce the laws on the Southwest border—as well as border enforcement more generally—would be most fully strengthened by taking some of the other steps in the immigration reform debate that are now on the table. This includes better employer enforcement, a better way of bringing people into the country legally, and dealing with the illegal status of the unauthorized population that is in the country right now. All of these things would contribute importantly to improved border enforcement. We are asking border enforcement to do more today than it is equipped to do, even if it were perfect, and it will not be perfect.

So we have to recognize that enforcement deals with symptoms. We have to go more fully to the real causes of illegal immigration and align our laws with our economic reality, with our future needs, and then continue to have a strong enforcement presence and be committed to adjusting that as we go.

Chairman CARPER. Well, I asked for a benediction, so I should probably offer an amen. Last year, we did a lot of political adver-

tisements, and you would hear at the end of each of the ads, you would hear someone say, "I approve this message." And we have three good closing messages there and I approve them all.

Thank you. This has been a great hearing and we appreciate your preparation and your years of work in this area and your efforts today to try to better inform us on our decisionmaking. It is just enormously helpful and we are grateful. Nice to see you all. Thanks so much.

The hearing record will remain open for 15 days for the submission of statements and questions for the record.

And with that, this hearing is adjourned and we are going to go vote. Thank you.

[Whereupon, at 11:45 a.m., the Committee was adjourned.]

## A P P E N D I X

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Senator Tom Carper, *Chairman*

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**HEARING: Border Security: Measuring the Progress and Addressing the Challenges**

WASHINGTON – *Today, Homeland Security and Governmental Affairs Committee Chairman Tom Carper (D-De.) convened the hearing, “Border Security: Measuring the Progress and Addressing the Challenges.” Chairman Carper’s opening statement, as prepared for delivery, follows:*

“To our witnesses and guests, welcome to the first of what will be several hearings this committee will hold on border security. As Congress wrestles anew with immigration reform this year, the security of our borders will be closely examined. This conversation is likely to be quite different than the one we had seven years ago when we last debated immigration reform. That is largely due to the substantial investments we have made to secure our borders over the past decade, particularly our southern border with Mexico.

“Despite all of the money, people, and attention we have poured into these efforts, we are still facing what I believe is a lag between perception and reality—much like what has happened with the American auto industry. By the beginning of the century, the quality of the vehicles that Detroit was making had begun to markedly improve, greatly narrowing—and then eliminating—the quality gap between our vehicles and those produced in Japan and Europe. However, it was only in the last few years that the public recognized this fact, allowing the perception of quality in American vehicles to catch up with the reality. Likewise, despite the tremendous improvements that have been made in border security over the past decade, the public’s perception of these improvements lags behind reality.

“According to Doris Meissner, one of our witnesses today, we will spend \$18 billion this year enforcing our immigration and customs laws. That’s more than we will spend on all other federal law enforcement—the FBI, DEA, ATF, the U.S. Marshalls, and the Secret Service—combined. Think about that. And since 2000, the Border Patrol alone has more than doubled in size, and its funding has almost quadrupled. This enormous investment reflects just how important effective border security is to our nation.

“Last month, I visited portions of the U.S.-Mexico border in Arizona with one of our colleagues, Senator John McCain. We were joined there by Representative Mike McCaul of Texas, who chairs the House Committee on Homeland Security. Later that same week, I toured other parts of that border with Secretary Janet Napolitano. Based on what I saw there, I believe that our

efforts, and especially those of the dedicated men and women who work along the border, are paying off for the American taxpayer—and they need to.

“As it turns out, illegal immigration has dramatically decreased. Some experts estimate that more undocumented immigrants now leave the United States each year than enter unlawfully. Border Patrol apprehensions of undocumented immigrants – our best current measure – are at their lowest level in decades. Now some part of these decreases may be due to the great recession we endured, which reduced the number of jobs available for immigrants. But I believe that we can attribute a lot of this success to the security gains that we have made—which deter people from crossing the border whether there are jobs here for them or not.

“Having said all that, I returned from the border wondering if apprehensions is the metric we should be using to measure our progress in border security and to guide our future investments there. I’m not convinced that it is. I am convinced, however, of the wisdom of the old adage: ‘you can’t manage what you can’t measure.’ The truth is that we need to refine and strengthen the metrics we use to determine how secure our borders and ports of entry are to ensure that our security efforts are both effective and as cost-efficient as possible. This is especially necessary when budgets are tight, as they are today. We simply cannot afford to keep ramping up resources for the border at the rate we have in the past. We must be strategic with our investments—and we can be.

“When I was in Arizona, I heard a number of frontline agents say that we need to focus our efforts on giving them technologies and tools that can serve as force multipliers. This includes a wide range of cameras, sensors, and radars that can be mounted on trucks or put on fixed towers to help the Border Patrol deploy its agents more efficiently. More aerial surveillance assets, including blimps and aircraft such as the C-206 are also needed to help the Border Patrol identify people crossing the border illegally and track them until agents can catch them.

“We also need to ensure that the investments we have already made are fully utilized, and not wasted. I was surprised, and frankly disappointed, to learn that the Border Patrol has four drones deployed in Arizona but only has the resources to fly two of them—and even then they cannot fly them every day of the week.

“Another critical issue is the growing sophistication of drug smuggling networks along the border and the problems they create for the Border Patrol. Agents in Arizona told me that the cartels actually put spotters with encrypted radios on top of mountains to help smugglers on the ground avoid law enforcement. We need to do a better job of using our resources, including drones and other aircraft, to find these spotters and send agents to arrest them.

“Stopping these criminal networks must be a high priority. Finding the criminals that guide drugs and immigrants across the border can be like finding a needle in the haystack. If we can reform our broken immigration system to open up more effective legal channels for those looking to come to our country for economic or family reasons, I believe we can make that haystack smaller. This will allow law enforcement to focus on the true bad guys.

“Finally, I’d also note that a lot of the smuggling seen on the southern border is being pushed to the ports of entry. These border crossings have received far less attention, and resources than the Border Patrol over the past decade, but they are just as important to our security and economy. Additionally, local mayors that I met with all told me that the lack of investments at border crossings is causing long wait times, which hurts their communities—and the country as a whole. We must make sure our ports of entry are secure, but we must also ensure that they are effective conduits for the legal travel and trade that are essential to our national wellbeing.

“Ultimately, I hope that we can help the Department of Homeland Security be so effective at securing the border that we can begin shifting our resources towards staffing and modernizing our ports of entry. In closing, I hope today’s hearing facilitates a frank conversation about how border security has improved since the last time immigration reform was debated, and helps us identify what more needs to be done. I support the efforts underway to reform our immigration laws.

“Looking ahead, I believe that this Committee can contribute significantly to the conversations that are taking place now by informing them and ultimately enabling the Congress and our President to hammer out a thoughtful and effective immigration policy for America in the 21st century.”

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**Hearing: “Border Security: Measuring the Progress, Addressing the Challenges”**

Opening Statement of Dr. Tom A. Coburn, Ranking Member

Thank you to Chairman Carper for beginning what I hope will be a series of thoughtful hearings delving into the complex issues of border security and immigration.

Today, we are going to discuss how we measure border security. It’s an interesting topic, because what we called “border security” in the 1980’s and 1990’s became something very different after September 11<sup>th</sup>. While the shift in defining border security has changed, the core issue of understanding and deterring the illicit flows of people, drugs and other contraband remains. How DO we measure our success in these areas?

Currently, we have more than 20-thousand Border patrol agents, 1200 Air and Marine officers and upwards of 20-thousand customs officers posted at and between our ports of entry. In addition to boots on the ground, as we call them, there are hundreds of manned and unmanned aircraft, fast boats, mounted agents, water patrols and even military assets all focused on our borders. All this is to say, as a nation we have made a lot of investments and bought a lot of “things” to secure our borders. But is it working and how do we know?

Further, we have to question some of the policy decisions that could impact the debate on border security and immigration reform. I recently sent a letter to the DHS Office of Inspector General questioning the Secretary’s decision to release a number of immigrants being held in detention, ostensibly because of sequestration. It is not clear if there was an analysis to find out whether any were criminals or posed a threat to public safety. I have sent many letters about making smart cuts during sequestration to avoid impacts on essential functions, like national security. Thus, I am confused about why the Secretary would make a decision that could taint the debate on immigration reform.

I have also questioned the Secretary about her approval of the use of drones. In a March 2<sup>nd</sup> C-NET article, it was reported the DHS has customized its drone fleet to carry out domestic surveillance missions such as “identifying civilians carrying guns and tracking their cell phones,” which fly in the face of civil liberties. We must ask whether the trade off in terms of border security is worth the privacy sacrifice. We have to have good data and a credible measurement of that data to determine how these decisions enhance what we call “border security.”

I look forward to going through these questions with our panel of witnesses today and hopefully get closer to real answer about how we measure border security.



Testimony of

Doris Meissner  
Senior Fellow and Director, U.S. Policy Program  
Migration Policy Institute

*Border Security: Measuring the Progress and Addressing the Challenges*

Before the  
Committee on Homeland Security and Governmental Affairs  
U.S. Senate  
Washington, D.C.

March 14, 2013

Chairman Carper, Ranking Member Coburn, and Members of the Committee:

Good morning. My name is Doris Meissner. I am a Senior Fellow at the Migration Policy Institute and Director of the Institute's U.S. Policy Program. Thank you for the opportunity to appear before you today on the topic of "Border Security: Measuring the Progress and Addressing the Challenge."

My statement is based on my personal experience with border and immigration enforcement when I served as Commissioner of the U.S. Immigration and Naturalization Service (INS) from 1993 through 2000. It was during that period that serious efforts to address border control, particularly along the Southwest border with Mexico, were first introduced through a combination of substantial increases in funding for personnel, technology, and infrastructure and new enforcement strategies.

My statement is also based on a recent MPI report that I and colleagues co-authored, *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*. In it, we provide an overview of the combined actions of today's federal agencies charged with enforcement of the nation's immigration laws and system. The report describes for the first time the totality and evolution since the mid-1980s of the nation's modern-day immigration enforcement machinery. That machinery evolved both by deliberate design and by unanticipated developments, and is organized around what we identify as six distinct pillars, as follows:

- Border enforcement
- Visa controls and travel screening
- Information and interoperability of data systems
- Workplace enforcement
- The intersection of the criminal justice system and immigration enforcement
- Detention and removal of noncitizens

The report lays out the programs and results, as well as the critiques, of each of these six pillars. Its key findings demonstrate that the nation has reached an historical turning point in meeting long-standing immigration enforcement challenges.

I will focus in this statement on the border enforcement pillar and the improvements that have been made in border security in the context of immigration enforcement system improvements overall.

#### **I. Dramatic Increases in Funding, Staffing, Technology, and Infrastructure**

Illegal immigration and enforcement have been the dominant focus and concern driving immigration policymaking for more than 25 years. During this time, there has been strong and sustained bipartisan support for strengthened immigration enforcement, along with deep skepticism over the federal government's will or ability to effectively enforce the nation's immigration laws.

Support for enforcement has been heightened by the inability of lawmakers to bridge political and ideological divides over other reforms to the nation's immigration policy. As a result, a philosophy known as "enforcement first" has become the nation's response to illegal immigration, and changes to the immigration system have focused almost entirely on building enforcement programs and improving their performance.



As a result, the level of immigration enforcement spending in the United States now stands at a record high. In fiscal year 2012, budget allocations for the federal government's two main immigration enforcement agencies, U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), as well as its primary immigration enforcement technology initiative, the US-VISIT program, reached \$17.9 billion.<sup>1</sup>

This amount is nearly 15 times greater than the adjusted budget of the former Immigration and Naturalization Service (INS) in 1986 when the *Immigration Reform and Control Act* (IRCA) was enacted. It is 24 percent greater than the combined fiscal 2012 budgets of all other principal criminal federal law enforcement agencies: the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), Secret Service, US Marshals Service and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).<sup>2</sup> Such resource levels represent a paradigm shift in federal law enforcement spending that undergirds a transformation of the immigration enforcement system.

The lion's share of this increased funding has been devoted to border security. Between FY 2005 and FY 2012, CBP's budget rose from \$6.3 billion to \$11.7 billion, an increase of approximately 85 percent. During the same years, agency staffing grew by 50 percent, from 41,001 in FY 2005, to 61,354 in 2012. As of February 2012, a total of 21,186 full-time employees were staffing the nation's ports of entry, and the size of the Border Patrol stood at 21,370 agents — double its size in 2004.

The growth has occurred not only along the Southwest border, but also on the northern border with Canada, which has seen the number of agents deployed rise from 340 agents in 2001 to over 2,237 in 2011<sup>3</sup> — an increase of almost 560 percent since 9/11.<sup>4</sup>

Another recent trend has been substantial staffing growth in CBP's Office of Field Operations (OFO), which is responsible for inspecting people entering the country through air, land, and sea ports of entry (POEs). POE inspector staffing traditionally received less attention and fewer resources than the Border Patrol. Staffing of inspector positions is now virtually on par with Border Patrol agent-staffing between the ports. However, Border Patrol resources have doubled since 2005, while port-of-entry increases have grown about 45 percent.<sup>5</sup>

Border enforcement, which suffered from chronic resource deficiencies for much of the period between the early 1970s and the formation of the Department of Homeland Security (DHS) in 2003, has won strong, sustained public and bipartisan support. Today, the United States allocates more funding for border enforcement than for all of its other immigration enforcement and benefits programs combined.

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<sup>1</sup> Doris Meissner, Donald M. Kerwin, Muzaffar Chishti, and Claire Bergeron, *Immigration Enforcement in the United States: The Rise of a Formidable Machinery* (Washington, D.C.: Migration Policy Institute, 2013): 21, [www.migrationpolicy.org/pubs/enforcementpillars.pdf](http://www.migrationpolicy.org/pubs/enforcementpillars.pdf).

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Department of Homeland Security (DHS), *Budget-in-Brief FY 2007* (Washington, D.C.: DHS, 2008): 26, [www.dhs.gov/xlibrary/assets/Budget\\_BIB-FY2007.pdf](http://www.dhs.gov/xlibrary/assets/Budget_BIB-FY2007.pdf) (noting that there were 15,893 employees at ports of entry and 11,955 between ports of entry in 2005); DHS, *FY 2012 Budget in Brief* (Washington, D.C.: DHS, 2013): 85 (noting that there were 23,053 employees at ports of entry and 23,675 between ports of entry in 2012).

## II. Shifts in Border Control Strategy and Tactics

Border enforcement encompasses a broad sweep of responsibilities, geographies, and activities that involve the nation's air, land, and sea entry and admissions processes. Enforcement at U.S. territorial borders — especially the Southwest land border with Mexico — represents the most heavily funded and publicized element of border enforcement. CBP is the DHS agency that is tasked with regulating immigration and trade at the nation's borders, both at and between official ports of entry. It is made up of the Office of the Border Patrol (OBP), whose agents secure the border between ports of entry, and the Office of Field Operations (OFO), whose immigration inspectors administer air, land, and sea port-of-entry operations.

### A. First National Border Control Strategy

The INS introduced the first formal national border control strategy in 1994 during my tenure as Commissioner. Based on the principle of prevention through deterrence, the strategy was updated in 2004 to reflect post-9/11 threats and unprecedented new resource infusions.

The national strategy called for targeting resources and gaining control of the border in phases, beginning with the four historically highest crossing corridors from Mexico. Implementation began with Operation Hold the Line in the Juarez-El Paso area and Operation Gatekeeper in the Tijuana-San Ysidro area south of San Diego. The Rio Grande Valley in South Texas and the Nogales corridor south of Tucson followed. The expectation was that as resource infusions were deployed, apprehensions would rise because strengthened enforcement would result in stopping larger numbers and percentages of those attempting to cross. As migrants and smugglers experienced less success in crossing, apprehensions would taper off and longer-term deterrence would set in.<sup>6</sup>

The strategy called for positioning resources as close as possible to the actual border line, so that the Border Patrol's work would increasingly be that of prevention of entry, as compared with apprehending individuals once they had entered the United States, often some distance from the border. Forward placement of new resources — at somewhat reduced levels from the initial infusions — was to be permanent in order to establish and then maintain border control. To that end, entire swaths near the border were bulldozed to build roads enabling Border Patrol vehicle access, install lighting, add fencing and other barriers, position surveillance equipment, and facilitate use of night-vision and tracking technology to locate and apprehend unauthorized entrants and contraband.

Although the strategy anticipated changes in crossing patterns and shifts in the flow, it did not sufficiently contemplate the speed and scale at which migrant crossing patterns would adapt to enforcement successes experienced in the El Paso and San Diego sectors. Nor could the multi-year resource buildup and dramatic physical changes taking place along the border keep up with the shifts. As a result, success in gaining control of key border areas also led to a funnel effect in others, with migrants crossing in ever-larger numbers across increasingly difficult terrain and dangerous, historically isolated desert areas, especially in Arizona.

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<sup>6</sup> Border Patrol, *Border Patrol Strategic Plan: 1994 and Beyond* (Washington, D.C.: U.S. Customs and Border Protection, 1994): 9-10.

## **B. 2012-2016 Strategic Plan**

In spring 2012, the chief of the Border Patrol announced a new strategy, known as the “Risk-Based Strategic Plan.”<sup>7</sup> In this 2012-2016 plan, the Border Patrol states that the resource base that has been built and the operations that have been conducted over the past two decades enable it to focus on risk going forward. It calls for “identifying high-risk areas and flows and targeting our responses to meet those threats” through information, integration, and rapid response.<sup>8</sup>

To secure flows of goods and people by assessing and managing risk, the strategic plan lays out a vision of intelligence-driven operations that tap and analyze all of the information embedded in its considerable technology and agent experience base. It also underscores the importance of working closely with federal, state, local, tribal, and international partners in managing the “shared border.”

The emphasis on rapid response recognizes the need to be nimble in the face of continual changes, including possible threats of terrorism or other public harm. To institutionalize rapid-response capabilities, CBP has, for example, developed mobile response teams involving up to 500 agents to provide surge capabilities when changes in border activity occur.<sup>9</sup>

Steep staffing increases have also allowed the Border Patrol to deepen its readiness and training to be able to cope with border safety exigencies that arise regularly in the border’s frequently harsh climate and terrain. The Tucson, AZ sector, for example, has trained staff to provide emergency medical assistance and maintains rescue platforms where migrants can radio for help.<sup>10</sup>

Overall, the 2012 plan depicts an organization that envisions steady-state resources and operational challenges, and that seeks primarily to refine its existing programs and capabilities. A notable new theme is a heavy emphasis it gives to partnerships, especially with neighboring nations, which would have been “unthinkable” until recently.<sup>11</sup>

## **C. Changed Border Enforcement Tactics**

A prominent feature of today’s border enforcement is significant change in the enforcement methods the Border Patrol uses along the Southwest border. As its resources have grown, the Border Patrol has introduced new programs it terms the “consequence delivery system” (CDS).

In implementing CDS, the Border Patrol has replaced its long-standing practice of granting voluntary return to the majority of deportable migrants located along the U.S.-Mexico border with a

<sup>7</sup> Border Patrol, *2012-2016 Border Patrol Strategic Plan* (Washington, D.C.: U.S. Customs and Border Protection, 2012): 4, [http://nemo.cbp.gov/obp/bp\\_strategic\\_plan.pdf](http://nemo.cbp.gov/obp/bp_strategic_plan.pdf).

<sup>8</sup> *Ibid.*, 4, 7.

<sup>9</sup> Testimony of Mark Borkowski, Assistant Commissioner, Office of Technology, Innovation, and Acquisition, U.S. Customs and Border Protection (CBP); Michael Fisher, Chief, U.S. Border Patrol; and Michael Kostelnik, Assistant Commissioner, Office of Air and Marine, CBP, before the House Committee on Homeland Security, Subcommittee on Border and Maritime Security, *After SBInet - the Future of Technology on the Border*, 112<sup>th</sup> Cong., 1<sup>st</sup> sess., March 15, 2011, [www.dhs.gov/ynews/testimony/testimony\\_1300195655653.shtm](http://www.dhs.gov/ynews/testimony/testimony_1300195655653.shtm); Statement of Janet Napolitano, Secretary of Homeland Security, before the Senate Committee on Homeland Security and Governmental Affairs, *Securing the Border: Progress at the Federal Level What Remains to be Done?* 112<sup>th</sup> Cong., 1<sup>st</sup> sess., May 4, 2011, [www.dhs.gov/ynews/testimony/testimony\\_1304459606805.shtm](http://www.dhs.gov/ynews/testimony/testimony_1304459606805.shtm); Border Patrol, *Border Patrol Strategic Plan*, 12.

<sup>10</sup> Briefing by Border Patrol for the Committee on Estimating Costs of Immigration Enforcement in the Department of Justice, National Research Council of the National Academies, during a visit to the Tucson Sector, September 2010. Notes on file.

<sup>11</sup> Border Patrol, *2012-2016 Border Patrol Strategic Plan*, 5.

system that aims to impose some “consequence” on those it apprehends. The stated purpose for these measures is to break the smuggling cycle and networks by separating migrants from smugglers, and to raise the cost — monetary, legal, and psychological — of illegal migration to migrants and smugglers alike.

The modus operandi that had long characterized Southwest border enforcement involved liberal use of voluntary return of removable migrants. With voluntary return, an unauthorized migrant subject to removal may waive the right to a hearing and return voluntarily to his or her country of origin, typically Mexico.<sup>12</sup> The advantage to the government is that voluntary return is fast and relatively inexpensive; the advantage to the migrant is that it does not lead to long-term detention or a formal removal order that bars future immigration. Migrants removed pursuant to a formal order issued by an immigration judge are ineligible for a visa to return for ten years and then for 20 years after any additional removal.<sup>13</sup> Moreover, illegal entry after a formal order of removal is a felony.<sup>14</sup>

Until recently, about 90 percent of deportable migrants located since 1980 have been allowed voluntary return.<sup>15</sup> Voluntary return as the prevailing enforcement response to illegal crossing is now being supplanted by a variety of actions that are more consequential, both for the migrant and for the immigration system more broadly.

Possible consequences include issuance of formal orders of removal through the expedited removal program, filing criminal charges for illegal entry or illegal re-entry, such as those brought through Operation Streamline, and removal to the interior of Mexico or through a port of entry distant from where the person was initially apprehended.

The strategy was spearheaded in the Tucson sector, where CBP has reported that 90 percent of those apprehended (save for juveniles and special humanitarian cases) are subject to a “consequence” rather than being permitted voluntary return.<sup>16</sup> CDS was adopted border-wide during 2012.

If implemented as envisioned, voluntary return — historically widely characterized as a revolving door and the prevailing enforcement practice on the U.S.-Mexico border for many decades — will be limited to a relatively small sub-group of illegal crossers, primarily unaccompanied minors and humanitarian cases. CDS represents a sharp departure from past enforcement policy and practice.

### **III. Technology and Infrastructure**

Technology and fencing have dramatically transformed the infrastructure along the border. Although the first border fencing was constructed in 1990, prior to 2005, there were just 78 miles of pedestrian fencing and 57 miles of vehicle barriers in place along the Southwest border. Following the enactment of the 2006 *Secure Fence Act*,<sup>17</sup> that picture changed dramatically. By

<sup>12</sup> *Immigration and Nationality Act* (“INA”) §240B(a)

<sup>13</sup> INA § 212(a)(9)(A).

<sup>14</sup> INA §276; see also National Research Council of the National Academies, *Budgeting for Immigration Enforcement: A Path to Better Performance* (Washington, D.C.: National Research Council of the National Academies, 2011): 51.

<sup>15</sup> *Ibid.*, 48.

<sup>16</sup> Remarks by Alan Bersin, Commissioner, CBP, at the Center for American Progress, Washington, D.C., August 4, 2011.

<sup>17</sup> Pub. L. No. 109-367, 120 Stat. 2638 (Oct. 26, 2006).

February 2012, CBP had completed 651 miles of fencing along the Southwest border, including 352 miles of pedestrian fencing and 299 miles of vehicle fencing.<sup>18</sup>

Technology initiatives have also played a major role in transforming the border, though the results of highly touted large-scale technology initiatives have often been disappointing. The most recent example was the high-tech component of the Secure Border Initiative (SBI), known as SBInet.

SBInet was intended to provide the Border Patrol with a “common operating picture” of the border, by integrating images compiled from cameras, ground sensors, and radar. However, as documented by the Government Accountability Office (GAO), the program began experiencing problems shortly after it got off the ground. After years of missed deadlines, failed tests, and spending of more than \$860 million, Homeland Security Secretary Janet Napolitano announced in January 2011 that DHS was cancelling the project.<sup>19</sup>

Post SBInet, DHS has focused on nonintrusive inspection equipment at ports of entry and already-tested, commercially available technologies between the ports. They include remote video surveillance systems, mobile surveillance systems, thermal imaging, radiation portal monitors, mobile license plate readers, and unmanned aircraft.<sup>20</sup> Predator drone coverage now spans the entire Southwest border.<sup>21</sup> Fixed and mobile surveillance systems, which function as on-the-ground radar, are steadily replacing long-used ground sensors. Such surveillance technology allows a single agent to monitor seven miles of border area to classify the level of the threat of detection for enforcement response.

Technology has also fueled improvements in border control at ports of entry (POEs). New screening tools, such as the US-VISIT program, which checks the fingerprints of arriving noncitizens against criminal and immigration databases, have strengthened officers’ capability to determine when an arriving noncitizen is not eligible for admission. Similarly, improved platforms for border crossing cards have lessened the possibility of photo substitution on documents — a major problem for decades on the land borders.

#### IV. Ports of Entry

The ports of entry (POE) mission is arguably the most difficult and complex element of border security. CBP’s immigration inspectors question, under oath, persons seeking entry in order to determine their admissibility. POEs are responsible for both facilitation of legitimate trade and travel — which are vital for the economies and social well-being of the United States and most countries around the world — and for preventing the entry of a small but potentially deadly number of dangerous people as well as lethal goods, illicit drugs, and contraband.

As border security improves and border enforcement makes illegal crossing between ports ever more difficult, the potential for misuse of legal crossing procedures builds and can be expected to

<sup>18</sup> CBP, “Southwest Border Fence Construction Progress,” February 10, 2012, [www.cbp.gov/xp/cgov/border\\_security/ti/ti\\_news/sbi\\_fence/](http://www.cbp.gov/xp/cgov/border_security/ti/ti_news/sbi_fence/).

<sup>19</sup> Susan Ragland, *Secure Border Initiative: Controls over Contractor Payments for the Technology Component Need Improvement* (Washington, D.C.: Government Accountability Office, 2011): 2, [www.gao.gov/assets/320/318871.pdf](http://www.gao.gov/assets/320/318871.pdf).

<sup>20</sup> Testimony of Janet Napolitano, Secretary of Homeland Security, before the U.S. Senate Committee on Homeland Security and Governmental Affairs, *Securing the Border: Progress at the Federal Level: What Remains to be Done?* 112<sup>th</sup> Cong., 1<sup>st</sup> sess., May 3, 2011, [www.dhs.gov/news/2011/05/03/secretary-janet-napolitano-senate-committee-homeland-security-and-governmental](http://www.dhs.gov/news/2011/05/03/secretary-janet-napolitano-senate-committee-homeland-security-and-governmental).

<sup>21</sup> *Ibid.*

steadily increase, especially at land ports of entry. CBP estimates that it processed more than 340 million travelers in FY 2011.<sup>22</sup> With such volumes, inspectors have very little time on average to determine whether a traveler is authorized to enter.

Dramatic improvements in the nation's screening systems and capabilities, especially the US-VISIT program, have been fielded since September 11, 2001, as part of strengthened border control, especially at airports. New intelligence and information-sharing initiatives have also been implemented during the past decade. Inspections staffing has increased substantially, and CBP has undertaken numerous additional improvements to strengthen security at land POEs.

#### **A. Secure Border-Crossing Documents**

Since January 2007, the Western Hemisphere Travel Initiative (WHTI) has required all travelers to present specified documents to prove citizenship and identity to enter the country at POEs.<sup>23</sup> Ending inspectors' acceptance of verbal declarations of citizenship. The requirement represented a dramatic change from past practices on the Mexican and Canadian land borders where roughly 621,874 people — most of whom live and work in border areas — cross daily.<sup>24</sup>

The change provoked particular concern and tension in the U.S.-Canadian relationship, because the initial WHTI requirements called for all crossers to present passports, which many Canadian crossers did not possess. The United States subsequently agreed to accept enhanced drivers' licenses that are designed to meet WHTI document requirements, issued both by Canada and a number of northern border states, including Washington, Vermont, and New York. The United States also began to issue a new document, known as a passport card, to meet the statutory requirements.<sup>25</sup> According to CBP, the changes have had a high rate of compliance, without increasing wait times at ports of entry or seriously inconveniencing travelers.<sup>26</sup>

Land border inspections have become significantly more reliable and secure as a result of the change, as well as requirements for new border crossing cards (BCC) on the Southern border. Lawful crossers now possess high-quality digital documents that are produced on the same platform as green cards and incorporate their same security features. Photo substitution on documents — a major problem for decades on land borders — is virtually impossible with currently available methods.<sup>27</sup>

<sup>22</sup> CBP, "CBP's 2011 Fiscal Year in Review," (press release, December 12, 2011),

[www.cbp.gov/xp/cgov/newsroom/news\\_releases/national/2011\\_news\\_archive/12122011.xml](http://www.cbp.gov/xp/cgov/newsroom/news_releases/national/2011_news_archive/12122011.xml).

<sup>23</sup> Maura Harty, Assistant Secretary of State for Consular Affairs, and Elaine Dezenski, Acting Assistant Secretary for Border and Transportation Security Policy and Planning, Department of State (DOS), "DOS Special Briefing on Western Hemisphere Travel Initiative," (DOS briefing, Washington, D.C., April 5, 2005), <http://2001-2009.state.gov/r/pa/prs/ps/2005/44286.htm>.

<sup>24</sup> CBP, "On a Typical Day in Fiscal Year 2011,"

[www.cbp.gov/linkhandler/cgov/about/accomplish/typical\\_day\\_fy11.ctt/typical\\_day\\_fy11.pdf](http://www.cbp.gov/linkhandler/cgov/about/accomplish/typical_day_fy11.ctt/typical_day_fy11.pdf).

<sup>25</sup> DOS, "US Passport Card Frequently Asked Questions," March 2011, [http://travel.state.gov/passport/ppt\\_card/ppt\\_card\\_3921.html](http://travel.state.gov/passport/ppt_card/ppt_card_3921.html).

<sup>26</sup> Statement of Richard M. Stana, Director, Homeland Security and Justice Issues, GAO, before the Senate Committee on Homeland Security and Governmental Affairs, *DHS Progress and Challenges in Securing the U.S. Southwest and Northern Borders*, 112<sup>th</sup> Cong., 1<sup>st</sup> sess., March 30, 2011, [www.gao.gov/new.items/d11508t.pdf](http://www.gao.gov/new.items/d11508t.pdf); Joint Statement of DHS Acting Assistant Secretary for Policy Richard Barth and CBP Office of Field Operations Assistant Commissioner Thomas Winkowski before the House Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Communications, *Implementing the Western Hemisphere Travel Initiative at Land and Sea Ports of Entry: Are We Ready?*, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 7, 2009, [www.cbp.gov/xp/cgov/newsroom/congressional\\_test/whti\\_ready\\_testify.xml](http://www.cbp.gov/xp/cgov/newsroom/congressional_test/whti_ready_testify.xml).

<sup>27</sup> Jess T. Ford, *Border Security: Security of New Passports and Visas Enhanced, but More Needs to be Done to Prevent Their Fraudulent Use* (Washington, D.C.: GAO, 2007): 3, 13-4, [www.gao.gov/products/GAO-07-1006](http://www.gao.gov/products/GAO-07-1006); Dr. Nabajyoti Barkakati,

Despite the document integrity, today's problem is look-a-likes: people crossing with legitimate documents they have obtained from others with similar appearances.<sup>28</sup> Given the high volume of land-border crossings and facility constraints, it has not been possible to scan the fingerprints of Mexican border crossers with BCCs, or of Canadian visitors — thereby “assuring” identity through biometrics — except for individuals referred for more in-depth screening, known as secondary inspection.<sup>29</sup>

#### **B. POE Infrastructure**

Meeting the physical infrastructure needs at POEs has not kept pace with advances in documentation and screening developments. Communities such as Nogales, AZ, for example, have two ports that typically handle 15,000 pedestrian and 20,000 vehicle crossings daily (3.5 million pedestrians and 4.7 million vehicles annually). The POEs are equipped with technology that permits 100 percent license plate reading and document scanning. However, when traffic wait times exceed 60 minutes, inspectors typically “flush” traffic through, pulling aside only obvious high-risk crossers, in an effort to reconcile their facilitation and enforcement missions under trying conditions.

Thus, while there have been significant advances in POE screening and controls, infrastructure limitations prevent such technologies from being fully utilized, especially during times of heavy traffic. Similarly, given the high volume of traffic at land border crossings, full deployment of US-VISIT screening requirements for Mexican and Canadian visitors has not yet been implemented.<sup>30</sup> As a result, the potential for land POE inspections to be a weak link remains a critical enforcement challenge.

#### **V. Determining Border Control**

In assessing success and effectiveness, the Border Patrol has traditionally relied on border apprehensions data and changes in detected flows.

Border apprehensions reached a peak for the post-IRCA period of almost 1.7 million in 2000<sup>31</sup> and have fallen significantly in the years since. Apprehensions in FY 2011 numbered 340,252, one-fifth of the FY 2000 level — and the lowest level since 1970.<sup>32</sup> The most precipitous drop took place from 2008 to 2011 when apprehensions declined by 53 percent.<sup>33</sup> The post-2008 decline

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*Improvements in the Department of State's Development Process Could Increase the Security of Passport and Border Crossing Cards* (Washington, D.C.: GAO, 2010): 7, 13-4, [www.gao.gov/assets/310/305134.pdf](http://www.gao.gov/assets/310/305134.pdf); CBP, “Securing America's Borders: CBP Fiscal Year 2009 in Review Fact Sheet,” November 24, 2009, [www.cbp.gov/xp/cgov/about/accomplish/previous\\_year/fy2009\\_stats/11242009\\_5.xml](http://www.cbp.gov/xp/cgov/about/accomplish/previous_year/fy2009_stats/11242009_5.xml).

<sup>28</sup> Ibid.

<sup>29</sup> DHS US-VISIT, “US-VISIT Biometric Procedures: Applicability to Canadian Citizens,” October 2, 2009, [www.dhs.gov/files/programs/editorial\\_0695.shtm](http://www.dhs.gov/files/programs/editorial_0695.shtm); DHS US-VISIT, “US-VISIT Biometric Procedures: Applicability to Mexican Citizens,” October 2, 2009, [www.dhs.gov/files/programs/editorial\\_0696.shtm](http://www.dhs.gov/files/programs/editorial_0696.shtm).

<sup>30</sup> DHS, “US-VISIT: What to Expect When Visiting the United States,” [www.dhs.gov/us-visit-what-expect](http://www.dhs.gov/us-visit-what-expect).

<sup>31</sup> Apprehensions in 2000 reached 1,676,438 — slightly lower than the historic peak of 1,692,544 in 1986. Border Patrol, “Nationwide Illegal Alien Apprehensions Fiscal Years 1925-2011,”

[www.cbp.gov/linkhandler/cgov/border\\_security/border\\_patrol/usbp\\_statistics/25\\_10\\_app\\_stats.ctt/25\\_11\\_app\\_stats.pdf](http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/25_10_app_stats.ctt/25_11_app_stats.pdf).

<sup>32</sup> Ibid.

<sup>33</sup> CBP, “CBP's 2011 Fiscal Year in Review,” (press release, December 12, 2011).

[www.cbp.gov/xp/cgov/newsroom/news\\_releases/national/2011\\_news\\_archive/12122011.xml](http://www.cbp.gov/xp/cgov/newsroom/news_releases/national/2011_news_archive/12122011.xml); Border Patrol, “Total

corresponds to the onset of the Great Recession and the sudden loss of jobs, particularly in the construction, hospitality, and tourism sectors, which served as major sources of employment for unauthorized migrants, especially from Mexico and Central America.

Other changes have also taken place. Beyond significantly fewer apprehensions and individuals arrested, net illegal immigration from Mexico has fallen to zero or become slightly negative (fewer coming than leaving) for the first time in 40 years.<sup>34</sup> These changes can be traced to stronger growth in Mexico's economy than in that of the United States and to fundamental demographic change in Mexico, including lower birth rates, fewer people under the age of 15, and reduced numbers of young workers entering the labor force.<sup>35</sup>

However, border enforcement is also having an effect. Apprehensions along the Southwest border have declined in all nine Border Patrol sectors. The decline has been most dramatic in the Yuma, AZ sector (a 96 percent decrease between 2005 and 2011), the El Paso, TX sector (a 92 percent decrease), and the Del Rio, TX sector (a 76 percent decrease).

In recent years, CBP has identified the Tucson, AZ sector as its greatest challenge in establishing control across the full Southwest border.<sup>36</sup> The sector, which recorded 123,285 apprehensions in FY 2011, accounted for twice as many arrests as the next highest sector (the Rio Grande Valley, with 59,243).<sup>37</sup> At the same time, the Tucson sector has experienced a 42 percent drop in apprehensions since 2011, and a 72 percent decline since 2005. Thus, although its arrest levels are comparatively high, the declines place it among sectors that have seen the most significant progress in recent years.

Such changes raise the question of how to define and measure border control. DHS argues that preventing *all* unlawful entries is not an attainable outcome. Homeland Security Secretary Janet Napolitano has stated that DHS will never be able to "seal the border" in the sense of preventing all illegal migration.<sup>38</sup>

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Illegal Alien Apprehensions by Fiscal Year,"

[www.cbp.gov/linkhandler/cgov/border\\_security/border\\_patrol/usbp\\_statistics/99\\_10\\_fy\\_stats.ctt/99\\_11\\_fy\\_stats.pdf](http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/99_10_fy_stats.ctt/99_11_fy_stats.pdf).

<sup>34</sup> Elliot Spagat, "AP Exclusive: Border Patrol to Toughen Policy," Associated Press, January 17, 2012, [www.denverpost.com/immigration/ci\\_19757370](http://www.denverpost.com/immigration/ci_19757370); Douglas S. Massey, "It's Time for Immigration Reform," CNN, July 7, 2011, <http://globalpublicsquare.blogs.cnn.com/2011/07/07/its-time-for-immigration-reform/>; Jeffrey Passel and D'Vera Cohn, *U.S. Unauthorized Immigration Flows are Down Sharply Since Mid-Decade* (Washington, D.C.: Pew Hispanic Center, 2010), [www.pewhispanic.org/2010/09/01/us-unauthorized-immigration-flows-are-down-sharply-since-mid-decade/](http://www.pewhispanic.org/2010/09/01/us-unauthorized-immigration-flows-are-down-sharply-since-mid-decade/); Jeffrey Passel and D'Vera Cohn, *Unauthorized Immigrant Population: National and State Trends, 2010* (Washington, D.C.: Pew Hispanic Center, 2011), <http://pewhispanic.org/files/reports/133.pdf>; Marc R. Rosenblum, *Border Security: Immigration Enforcement Between Ports of Entry*, (Washington, D.C.: Congressional Research Service, 2012): 1, <http://fpc.state.gov/documents/organization/180681.pdf>.

<sup>35</sup> Aaron Terrazas, Demetrios G. Papademetriou, and Marc R. Rosenblum, *Evolving Demographic and Human Capital Trends in Mexico and Central America and their Implications for Regional Migration* (Washington, D.C.: Migration Policy Institute, 2011), [www.migrationpolicy.org/pubs/RMSG-human-capital.pdf](http://www.migrationpolicy.org/pubs/RMSG-human-capital.pdf).

<sup>36</sup> Remarks by CBP Commissioner Alan Bersin at the Migration Policy Institute (Leadership Visions address, MPI, Washington, D.C., October 14, 2010), <http://vimeo.com/15887500>.

<sup>37</sup> DHS Office of Immigration Statistics, *2011 Yearbook of Immigration Statistics* (Washington, D.C.: DHS, Office of Immigration Statistics, 2012): 95, [www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois\\_yb\\_2011.pdf](http://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois_yb_2011.pdf).

<sup>38</sup> Homeland Security Secretary Janet Napolitano, "Press Conference with Secretary of Homeland Security Janet Napolitano; ICE Assistant Secretary John Morton; Los Angeles County, California, Sheriff Lee Baca; Harris County, Texas, Sheriff Adrian Garcia; Fairfax County, Virginia, Sheriff Stan Barry on New Immigration Enforcement Results," Washington, D.C., October 6, 2010), [www.ice.gov/news/releases/1010/101006washingtondc2.htm](http://www.ice.gov/news/releases/1010/101006washingtondc2.htm).



The Border Patrol has been re-assessing its definition of border control and the metrics to be used in determining control. Part of its thinking may involve the concept of determining and monitoring baseline flows. As in other areas of law enforcement, where some degree of law-breaking is expected to occur and is met with policing responses, CBP rightly argues that certain baseline flows of people and drugs crossing the border illegally will exist. Thus, the goal is distribution of baseline flows as evenly as possible so that no location is taking the brunt, and effective responses and deterrence keep them to a minimum. Low-level, distributed flows, under this theory, constitute “risk mitigation” consistent with law enforcement practices that see success as reducing risk to a point of low probability of high-risk occurrences, especially terrorism.

For FY 2011, the Tucson sector had 123,285 apprehensions. The Border Patrol states that at that level, given the steep percentage declines of recent years, the Tucson sector could be reaching the level of its baseline flows, as have San Diego, El Paso, and the other sectors that now experience a degree of illegal crossing attempts but are able to respond to them and are, therefore, deemed to be under control.

## **VI. Measurement**

While most analysts agree that the combination of increased border enforcement, shifting trends in Mexico, and job loss in the U.S. economy has led to a decline in the number of individuals crossing the border illegally, there is much disagreement over how to measure improvements in border security and over what constitutes a “secure” border.

Establishing that border control has significantly improved relies primarily on inputs (e.g., resource increases) — not on outcomes and impact (e.g. deterrence measures, such as size of illegal flows, share of the flow apprehended, or changing crosser recidivism rates). Ultimately, the ability of immigration agencies and DHS to communicate change, overcome misperceptions, and combat distorted charges about inadequate border control will require evidence and analysis of such outcomes.

Apprehensions are insufficient as sole measures of effectiveness because they count activity or workload, not persons. In the past, the Border Patrol has cited both surges and reductions of apprehensions as evidence of deterrence.<sup>39</sup> Apprehensions are a valid proxy for reduced flows and deterrence, particularly when they demonstrate a trend, as has occurred with the steep apprehension declines in recent years. However, they do not provide an estimate of the total size of the illegal flow. More sophisticated, valid measures for estimating actual flows across the border are long overdue.

Due in large part to the new and improved technologies along the border, the Border Patrol is increasingly able to develop additional data that capture broader trends in border control effectiveness. Independent analyses of these data, like the apprehensions data, point to a fundamental change in border control and effectiveness in recent years.

For example, a 2012 report from the Congressional Research Service (CRS), which analyzed data stored in US-VISIT’s IDENT database, concluded that the number of unique individuals intercepted by the Border Patrol fell from 800,000 in FY 2000 to 269,000 in FY 2011.<sup>40</sup> CRS also noted a

<sup>39</sup> Donald Kerwin, *Chaos on the U.S.-Mexican Border* (Washington, D.C.: Catholic Legal Immigration Network, Inc., 2001): 8-10, [www.lexisnexis.com/practiceareas/immigration/pdfs/web305.pdf](http://www.lexisnexis.com/practiceareas/immigration/pdfs/web305.pdf).

<sup>40</sup> Rosenblum, *Border Security: Immigration Enforcement Between Ports of Entry*, 25.

significant decline in the share of those individuals crossing the border who constituted “recidivist” crossers — meaning persons who had previously been caught crossing the border illegally, and who were attempting to cross again. According to the CRS analysis, the prevalence of recidivists as a share of total crossers fell from a peak of 28 percent in FY 2007 to 20 percent in FY 2011.<sup>41</sup>

More recently, a December 2012 GAO report looked at Border Patrol measurements of “estimated illegal entries,” which CBP calculated by using cameras, sensors, and radars, as well as agent observation, to combine total apprehensions with an estimated number of “turn-backs” (individuals who cross back into Mexico before the Border Patrol can apprehend them) and “got-aways” (individuals who proceed into the interior of the United States after unlawfully crossing the border).

GAO found that between FY 2006 and FY 2011, apprehensions at the border as well as estimated illegal entries declined significantly in all nine Border Patrol sectors along the U.S.-Mexico border. In the Tucson sector alone, the number of estimated illegal entries decreased by 69 percent during that timeframe, while the number of apprehensions fell by 68 percent.<sup>42</sup>

CBP and DHS are developing additional measures from many other kinds of data that are amenable to assessing effectiveness. Systematic measurement of critical elements of border control would allow for a more informed, realistic public debate about border security and should be indispensable ingredients for CBP and DHS in carrying out their border control mission.

## VII. Changes in Mexico

Fundamental demographic and economic changes are underway in Mexico that represent a historic shift in several of the key “push” factors underlying Mexican illegal immigration to the United States. The most significant has been a drop in Mexico’s population growth rate — a trend primarily driven by falling fertility rates. Mexico’s population growth rate stood at around 1.1 percent during the first decade of the 21<sup>st</sup> century — down from 3.2 percent in the 1960s.<sup>43</sup> Concurrently, the number of people under the age of 15 in Mexico has declined, and the number of people aged 15 to 29 will start to decline in the coming years.<sup>44</sup> Both trends are critical, because studies indicate that most unauthorized immigrants come to the United States before they turn 30.

In addition, unemployment rates in Mexico have fallen (4.9 percent, according to the country’s official estimates),<sup>45</sup> educational attainment levels are rising, and Mexico’s population is rapidly aging. All are indicators of declining “push” factors for illegal Mexican immigration. Studies indicate that the flow of Mexican immigrants overall has declined significantly, largely because of decreased illegal immigration flows. According to the Pew Hispanic Center, net new migration from Mexico fell to zero in 2010.<sup>46</sup>

<sup>41</sup> Ibid.

<sup>42</sup> GAO, *Border Patrol: Key Elements of New Strategic Plan Not Yet in Place to Inform Border Security Status and Resource Needs* (Washington, D.C.: GAO, 2012): 11-12, [www.gao.gov/assets/660/650730.pdf](http://www.gao.gov/assets/660/650730.pdf).

<sup>43</sup> Terrazas, Papademetriou, and Rosenblum, *Evolving Demographic and Human Capital Trends*.

<sup>44</sup> Ibid., 6.

<sup>45</sup> Instituto Nacional de Estadística y Geografía (INEGI), “Occupación y Empleo,” [www.inegi.org.mx/Sistemas/temasV2/Default.aspx?s=est&c=25433&t=1](http://www.inegi.org.mx/Sistemas/temasV2/Default.aspx?s=est&c=25433&t=1).

<sup>46</sup> Jeffrey Passel, D’Vera Cohn, and Ana Gonzalez-Barrera, *Net Migration from Mexico Falls to Zero—and Perhaps Less* (Washington, D.C.: Pew Hispanic Center, 2012), [www.pewhispanic.org/2012/04/23/net-migration-from-mexico-falls-to-zero-and-perhaps-less/](http://www.pewhispanic.org/2012/04/23/net-migration-from-mexico-falls-to-zero-and-perhaps-less/).

The shifts occurring in Mexico have not occurred in the neighboring Central American countries of El Salvador, Guatemala, and Honduras. However, the combined population of El Salvador, Guatemala, and Honduras (27.7 million people) is about one-quarter the size of Mexico's population (107.4 million).<sup>47</sup> Thus, even if the drivers of illegal immigration from these countries remain quite high, the number of unauthorized immigrants attempting to enter the United States from Central America is unlikely to rival past Mexican flows.

### **VIII. Conclusion**

Today's border enforcement is a multi-faceted, sophisticated enterprise that encompasses not only immigration enforcement but wide-ranging national security, anti-narcotics, criminal enforcement, intelligence, regulatory, trade, federal, state, local, tribal, binational, and multinational missions, programs, and partnerships. The facts on the ground about border enforcement — especially along the Southwest border with Mexico — and about Mexican illegal immigration have steadily and dramatically changed. Public perceptions about them have not always caught up with the new realities.

The system has become institutionalized through its national security links and unprecedented resource investments in vital capabilities that demonstrate the federal government's ability and will to vigorously enforce the nation's immigration laws, at the borders and in the interior of the United States. Judging by resource levels, case volumes, and enforcement actions — the only publicly available comprehensive measures of the performance of the system — border security and immigration enforcement can be seen to rank as the federal government's highest criminal law enforcement priority. The difficulties and dangers of crossing the border and the greater likelihood of detection and removal once in the United States have become widely experienced by would-be and seasoned migrants alike.

Border security has been significantly strengthened in all its key dimensions. It is imperfect and would benefit from investment in land port-of-entry infrastructure as well as from developing systematic evaluation and impact measurement, for example. Nevertheless, it would be strengthened even further by enactment of immigration laws that both address inherent weaknesses in enforcement beyond border security — such as employer enforcement — and that better rationalize immigration policy to align with the nation's economic and labor market needs and future growth and well-being.

Meeting those needs cannot be accomplished through more border enforcement, regardless of how well it is carried out or how much added spending is authorized. The dramatic strides that have been made in border security constitute a sound platform from which to address broader immigration policy changes suited to the larger needs and challenges that immigration represents for the United States in the 21<sup>st</sup> century.

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<sup>47</sup> Terrazas, Papademetriou, and Rosenblum, *Evolving Demographic and Human Capital Trends*: 19.

## Measuring the Effectiveness of Border Enforcement

Prepared statement by

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Before the

**Committee on Homeland Security and Governmental Affairs**

*United States Senate*

*1<sup>st</sup> Session, 113th Congress*

### Hearing on “Border Security: Measuring the Progress and Addressing the Challenges”

I want to thank Chairman Carper, Ranking Member Coburn, and the distinguished members of the committee for inviting me to testify today on this very important topic.

The testimony that follows is drawn from research I have been conducting over the past year with two distinguished economists, Bryan Roberts and John Whitley, on measuring the effectiveness of border enforcement. Dr. Whitley is a senior fellow at the Institute for Defense Analyses, and the former director of Program Analysis and Evaluation (PA&E) at the Department of Homeland Security (DHS), where he led the resource allocation process and the measurement, reporting, and improvement of performance. Dr. Roberts is senior economist at Econometrica, the current president of the National Economists Club, and formerly assistant director of Borders and Immigration in the Office of Program Analysis and Evaluation at DHS. I am the author of the 2008 book *The Closing of the American Border*, which examined U.S. efforts to strengthen border security in the aftermath of the 9/11 terrorist attacks, and I was the project director for the 2009 Council on Foreign Relations *Independent Task Force on U.S. Immigration Policy*, which was co-chaired by former White House chief of staff Mack McLarty and former Florida governor Jeb Bush.

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In an article in the July/August 2011 issue of *Foreign Affairs*, entitled “Are U.S. Borders Secure? Why We Don’t Know and How to Find Out,” Dr. Roberts and I noted that by every conceivable input measure—the number of Border Patrol agents, miles of fencing, drone and surveillance coverage—the border is far more secure than it has ever been. Yet according to a recent poll by *The Hill* newspaper, nearly two-thirds of Americans believe the border is still not secure.<sup>1</sup>

We wrote:

This contradiction stems in part from the fact that the Department of Homeland Security has never clearly defined what border control means in practice. A secure border cannot mean one with no illegal crossings—that would be unrealistic for almost any country, especially one as big and as open as the United States. On the other hand, the borders cannot be considered secure if many of those attempting to enter illegally succeed. Defining a sensible middle ground, where border enforcement and other programs discourage many illegal crossings and most of those who try to cross illegally are apprehended, is the challenge.

Border security is always going to be a subjective question. There is no such thing as perfect security, and the question for policymakers is always going to be a difficult one of trading off costs and benefits. And in the border environment, there are many different security issues—illegal crossings by economic migrants, drug smuggling, gang violence, the sanctity of property, and the danger of infiltration by terrorists or serious criminals.

Our research has focused on the issue of illegal entry by migrants, and this remains the primary focus of the debate over border security. Many in Congress and among the public are concerned that another comprehensive immigration reform bill will be followed, as it was after the 1986 Immigration Reform and Control Act (IRCA), by another surge in illegal migration to the United States.<sup>2</sup> As a consequence, Congress is currently debating measures that would link certain elements of the bill to demonstrated progress on border security.

The testimony that follows addresses two questions: first, how should the government measure progress on border security?; and second, how should Congress and the Obama administration use these data to improve the effectiveness of border enforcement policies and tactics?

### What DHS Reports to Congress

One of the reasons for public skepticism about the current state of border security is that the U.S. government actually releases very little information about unauthorized border crossings. Currently, the Department of Homeland Security makes public only a single relevant number, which is the total arrests, or apprehensions, made by Border Patrol agents of unauthorized crossers in the vicinity of the border.

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<sup>1</sup> Mike Lillis, “Hill Poll: Voters oppose deportations, but see border as vulnerable,” *The Hill*, February 4, 2013. <http://thehill.com/polls/280775-hill-poll-voters-oppose-deportations-but-see-border-as-vulnerable>.

<sup>2</sup> Alden, Edward, “Winning the Next Immigration Battle: Amnesty, Patrols and the Future of U.S. Borders,” *ForeignAffairs.com*, February 11, 2013.

Multiple arrests of the same individual are counted multiple times. The number of apprehensions at the southwest border with Mexico has dropped dramatically over the past decade, from more than 1.65 million in the FY2000 to a low of 340,252 in FY2011. The number rose slightly last year, in FY2012, to 356,873, levels that are lower than any years since the early 1970s.<sup>3</sup>

While the total number of apprehensions in the border region is certainly a useful number, it does not tell an obvious story. As in any law enforcement effort, the growing number of arrests could be the result either of stepped up policing that catches a higher percentage of offenders, or it could be the result of fewer individuals breaking the law, perhaps because they were deterred by increased enforcement. And indeed, Customs and Border Protection (CBP) has at times interpreted the numbers both ways. As the authors of a RAND Corporation study noted in 2011: “CBP [attributed] *increases* in apprehensions made at checkpoints in some border sectors to improved operations and decreases in apprehensions in other sectors to the deterrent effects of improved CBP technologies and increased staffing. Clearly a measure that reflects successful performance whether it rises or falls has limited value as a management tool.”<sup>4</sup>

Yet the apprehension number is virtually the sole outcome measure that members of Congress and the public can use to evaluate the success or failure of enforcement efforts to date in curbing illegal immigration. Other important enforcement metrics related to illegal entry at the ports or between the ports, or visa overstays, are not reported. The following table, compiled by Dr. Whitley, shows how little the Department of Homeland Security reported regarding outcomes related to illegal immigration enforcement as part of its most recent Annual Performance Report.

Table 1. DHS Annual Performance Report, FY2011

Outcome	Performance Measures	FY11 APR <sup>a</sup>
Illegal Entry Between Ports	Number of Attempted Illegal Entries	No
	Number of Apprehensions	Partial
	Apprehension Rate	No
	Number of Successful Illegal Entry	No
Illegal Entry At Ports	Number of Attempted Illegal Entries	No
	Number of Apprehensions <sup>b</sup>	No
	Apprehension Rate	No
	Number of Successful Illegal Entry	No
Visa Overstay	Number of New Visa Overstayers	No

<sup>3</sup> The latest apprehensions data published by CBP are available at:  
[http://www.cbp.gov/linkhandler/cgov/border\\_security/border\\_patrol/usbp\\_statistics/usbp\\_fy12\\_stats/nationwide\\_appr\\_2000\\_2012.ctt/nationwide\\_appr\\_2000\\_2012.pdf](http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/usbp_fy12_stats/nationwide_appr_2000_2012.ctt/nationwide_appr_2000_2012.pdf).

<sup>4</sup> Morral, Andrew R., Henry H. Willis, and Peter Brownell, 2011. “Measuring Illegal Border Crossing Between Ports of Entry: An Assessment of Four Promising Methods,” RAND occasional paper, Santa Monica, California, RAND Corporation.

Unauthorized Immigrants Resident in the U.S.	Number of Unauthorized Immigrants Resident in the United States <sup>b</sup>	No
Voluntary Departure	Number of Unauthorized Immigrants Leaving of Their Own Accord	No
Law Enforcement Removal	Number of Unauthorized Immigrants Removed <sup>b</sup>	No
Deaths and Adjustments	Number of Unauthorized Immigrants who Died or Acquired Legal Status	No

<sup>a</sup> This column indicates if the performance measure was reported by DHS in its Fiscal Year (FY) 2011-2013 Annual Performance Report (APR).

<sup>b</sup> Although not reported in the DHS APR, some data on these measures are available from other sources.

While there seems little question that the number of illegal crossing attempts has fallen sharply over the past decade, the apprehension number does little to help measure the effectiveness of enforcement in curbing illegal entry. The main driver of falling apprehension numbers is certainly the weaker U.S. economy and higher unemployment, coupled with a somewhat stronger Mexican economy and violence on the Mexican side of the border that has made transit more dangerous. U.S. border enforcement has likely discouraged illegal entry as well. One study carried out for DHS, for example, showed a sustained rise in smuggling costs for illegal crossers since the beginning of the enforcement build-up in the mid-1990s, and a steady rise in the percentage of crossers using smugglers, both of which indicate growing enforcement effectiveness.<sup>5</sup> But such basic questions as the apprehension rate for unauthorized crossers, or the estimated number of successful illegal entries, cannot be answered simply by counting arrest totals. The oversight is puzzling given core DHS missions. Marc Rosenblum of the Congressional Research Service notes that the first U.S. national border control strategy, drawn up in 1994 when the United States launched its now two-decade long effort to bolster border enforcement, called for “prevention through deterrence.”<sup>6</sup> The 1994 strategy stated: “Although a 100 percent apprehension rate is an unrealistic goal, we believe we can achieve a rate of apprehensions sufficiently high to raise the risk of apprehension to the point that many will consider it futile to continue to attempt illegal entry.” Yet, with some slight and intermittent exceptions, DHS has never reported an apprehension rate for the border as a whole or for specific sectors.

The Border Patrol’s current strategy calls for “consequence delivery” to replace the historic practice of “voluntary return,” in which most Mexicans illegal crossers apprehended in the border region were allowed to return home voluntarily. The key reason for the new strategy is to discourage multiple crossing attempts. Instead, most of those arrested today face more severe consequences, including prosecution under Operation Streamline, repatriation to the interior of Mexico or to distant border sectors, or expedited removal that bars any legal entry for five years. An important question would be whether these consequence delivery programs have increased deterrence and discouraged multiple re-entry attempts. But the department has yet to release any data to evaluate their effectiveness.

<sup>5</sup> Roberts, Bryan, Gordon Hanson, Derek Cornwall, and Scott Borger, “An Analysis of Migrant Smuggling Costs Along the Southwest Border,” Working Paper, Office of Immigration Statistics, Department of Homeland Security, November 2010.

<sup>6</sup> Rosenblum, Marc R., Specialist in Immigration Policy, Congressional Research Service, “What Would a Secure Border Look Like?” Testimony to the House Committee on Homeland Security, Subcommittee on Border and Maritime Security, February 26, 2013.

The Department has certainly recognized the inadequacy of the apprehensions number as the sole measure of border security, and has said it considers it “an interim performance measure.” Yet despite promising to produce and report alternative measures, it has failed to do so, leaving Congress to assess the current state of border security and design policies for the future in the absence of data that would greatly assist that effort.

### What DHS Should Report to Congress

The outcome that is of most concern to the U.S. public is the gross inflow of unauthorized immigrants. In other words, how many unauthorized migrants escape detection, enter, and remain in the United States successfully? The two primary enforcement variables that affect this number are the chances of being caught (apprehension rate) and the consequences of being caught. The probability of arrest, plus the consequences of being arrested, are the two main border enforcement factors that determine the level of deterrence.<sup>7</sup> Deterrence can take two forms: “behind-the-border” deterrence, in which enforcement at the border, in the interior or at the workplace discourages would-be immigrants from ever trying to enter illegally; and “at-the-border” deterrence, in which those who have been caught crossing the border at least once are deterred from trying again. DHS should report measures for the three primary modes by which unauthorized migrants come to the United States: illegal crossing between the ports of entry; illegal crossing at the ports of entry; and legal entry on an authorized visa followed by overstay or other violation of visa terms.

#### *Illegal Entry Between the Ports*

There are three relatively low-cost methods of measuring gross inflow and apprehension rates between ports of entry: migrant surveys, recidivism analysis, and known-flow data. Migrant surveys, which have been carried out for several decades by academic groups, ask those who have attempted illegal entry how many times they were apprehended on a particular trip, and whether they ultimately successfully entered or gave up their attempt.<sup>8</sup> While helpful in measuring both the apprehension rate and deterrence, the currently available surveys are not timely enough and do not gather sufficient information to allow them to be used on their own to make estimates of inflow.<sup>9</sup> Recidivism analysis is a method made possible by the fact that the Border Patrol has captured fingerprints of those apprehended in illegal crossings for more than a decade

<sup>7</sup> Deterrence can of course be created by other enforcement-related and non-enforcement factors. The high levels of violence on the Mexican side of the border in recent years have likely increased deterrence, for example. Interior and workplace enforcement may increase deterrence, though migrant surveys have suggested to date that this effect is insignificant. Potential unauthorized migrants may also be deterred by a relatively weaker U.S. economy in which jobs are harder to find and expected wages are lower.

<sup>8</sup> The two major surveys are Princeton University’s Mexican Migration Project (MMP), which has been carried out every year since 1987, and the Mexican Migration Field Research and Training Program (MMFRP) of the University of California, San Diego, which focuses each year on a specific sending community.

<sup>9</sup> This was the conclusion of a team of researchers put together by the National Academies of Science to examine the utility of survey data in estimating unauthorized flows. The study concluded that such surveys “are not sufficient by themselves in meeting the needs of DHS for obtaining estimates of unauthorized migration flows across the U.S.–Mexico border on an annual or quarterly basis.” But the committee said that the combination of survey data with DHS administrative data could potentially produce valuable results. See: Carriquiry, Alicia and Malay Majumdar, Editors, “Options for Estimating Illegal Entries at the U.S.–Mexico Border,” 2012, Committee on National Statistics; Division of Behavioral and Social Sciences and Education; National Research Council.



now. As a result, it is possible to identify accurately those individuals who are caught multiple times attempting illegal entry. Under certain assumptions, this analysis allows for accurate estimates of the apprehension rate. As long as it is possible to identify individuals using biometric data (e.g., fingerprints), the number of recidivist apprehensions can be calculated. Under the assumption that everyone who is apprehended and returned by the Border Patrol tries to enter again, the apprehension rate is simply the ratio of those arrested on subsequent trips to total apprehensions, and the gross inflow is the remainder. The difficulty with this method is that it cannot precisely account for those who are apprehended and returned across the border and then are deterred and do not make subsequent attempts. Finally, “known-flow” data is based on sector-by-sector observations by the Border Patrol. Each sector has long kept such records, which include estimates of the number of people who successfully evade the Border Patrol (“got-aways”) or are observed to retreat back into Mexico after contact with Border Patrol (“turn-backs”). The difficulty here is that some percentage of illegal migrants will successfully enter the country without any observation by the Border Patrol.

As our research shows in greater detail, each of these methods suggests that considerable progress has been made in improving the effectiveness of border enforcement over the past decade. While none is perfect, and each raises significant methodological issues, these approaches allow for better measures than have been reported by DHS to date for some of the key outcomes in border enforcement.

#### *Migrant Surveys*

The Mexican Migration Project (MMP) survey has been conducted every year since 1987, in January when migrants are most likely to be back in their home communities. Each year, several communities in Mexico that are the source of significant migration flows are selected, and several hundred households in each community are surveyed. The heads of each household are asked for a complete history of their migration to the United States, including the number of times each was arrested and returned by the Border Patrol. As a result, it is possible to reconstruct migration histories dating back to the 1930s. Dr. Roberts's calculations based on these survey data suggest that the probability of apprehension fluctuated between 30 and 40 percent for the period 1955-1976, and then trended downward as the number of attempted crossings began to rise, reaching a low of about 20 percent in 1990. Since then the apprehension rate has trended upwards steadily, to somewhere between 40 and 50 percent by the late 2000s. MMP data suggest, however, that enforcement has had little deterrent effect. Unauthorized migrants from Mexico will try repeatedly until successful. There is some evidence for the 2008-2010 period that deterrence has risen, with some 15 percent of attempted illegal entrants giving up following an unsuccessful attempt. But the size of the sample remains too small for any clear conclusions.

The Mexican Migration Field Research and Training Program (MMFRP) survey, which has been conducted since 2005, focuses each year on one major Mexican sending community, and attempts to survey every household in that town. Efforts are also made to locate and interview migrants from that town living in the United States. Scott Borger has developed estimates of the probability of apprehension using MMFRP survey data.<sup>10</sup> Again the data suggest a steady rise in the likelihood that an unauthorized migrant will be

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<sup>10</sup> Borger, Scott, 2009, “Estimates of the Cyclical Inflow of Undocumented Migrants to the United States,” Center for Comparative Immigration Studies Working Paper 181.

apprehended, from a 20 to 40 percent range in the 1980s to a 40 to 60 percent range in the 2000s. As with the MMP data, most migrants appear to make multiple entry attempts and are ultimately successful.

#### *Recidivism Data*

The Border Patrol has historically attempted to identify repeat border crossers. Prior to 2000, these identifications were made largely through oral admission or recognition by Border Patrol agents; since 2000 Border Patrol has collected fingerprints from all apprehended migrants, compared them to their historical fingerprint database, and assigned an identification number to each apprehension of the same individual. Using a “repeated trials” model first pioneered by Thomas Espenshade, it is possible to use evidence of multiple apprehensions, known as recidivism, to estimate apprehension rates across the border and within specific sectors. Under the simple assumption that every individual who is apprehended and returned tries to enter again within a year, the probability of apprehension equals the ratio of recidivist apprehensions (all apprehensions after the first one) to total apprehensions. The difficulty with this method is that some unknown percentage of those apprehended and returned to Mexico will give up and go home rather than try to enter again.

The Department of Homeland Security commissioned a study of this data in 2006, and has updated it regularly, but the findings have not been released to the public. Some estimates were presented publicly at an economics conference in the summer of 2011. On the assumption that there is no at-the-border deterrence, the data show that apprehension rates have averaged 30 to 35 percent, and have varied little over the last decade. On the assumption that increased enforcement and other factors have deterred more migrants from repeated attempts over the past decade, as the survey evidence suggests, the apprehension rate would be considerably higher. If 30 percent of crossers were deterred from repeated attempts, for example, the apprehension rate in FY2010 would have been 45 percent. The recidivist method also permits a measure of the gross illegal inflow. Based on a 30 percent deterrence assumption, the gross inflow in FY2010 would have been 337,000 individuals.

#### *Known Flow Data*

The Government Accountability Office (GAO) recently presented the first comprehensive picture of U.S. border enforcement using “known flow” data.<sup>11</sup> Border Patrol agents in each of the sectors along the southwest border have long collected and recorded illegal activity within their sectors. These include apprehensions, estimated illegal entries, and so-called “turn-backs,” which are individuals who attempted to enter illegally but returned to Mexico after encountering resistance. In recording these observations, the Border Patrol relies on a mixture of visual observations by agents, camera, and other sensor data; “sign cutting” (footprints and other evidence of illegal crossings); and credible source reporting. While these data are extremely thorough, they are inherently incomplete because they fail to account for illegal crossers who were not observed through any of these means. Thus the known flow data are likely to exaggerate the effectiveness of border enforcement efforts.

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<sup>11</sup> Government Accountability Office, December 2012, *Border Patrol: Key Elements of New Strategic Plan Not Yet in Place to Inform Border Security Status and Resource Needs*, GAO-13-25.

The GAO report, which aggregates this data across the southwest border for the first time, is an extremely important contribution. In the Tucson sector, for example, the GAO reports that while the apprehension rate remained roughly constant from 2006 to 2011 at about 60 percent, the number of turn-backs increased significantly, from 5 percent to 23 percent. The percentage of successful illegal entries declined from 33 percent in 2006 to about 13 percent in 2011.<sup>12</sup> Thus the overall “effectiveness rate” of the Border Patrol in the Tucson sector in 2011 (apprehensions plus turn-backs) was 87 percent. The estimated number of successful illegal entries in the Tucson sector in FY2011 was just 25,376, compared with 207,519 in FY2006.

The data is similar across the entire southwest border. The GAO report estimates that the total number of successful illegal entries across the entire border in FY2011 was 85,000 individuals, compared with more than 600,000 in FY2006. While this likely underestimates the total number of successful entries, the trend is a very strong one and indicates both increased deterrence and increased effectiveness of enforcement at the border. The Border Patrol appears to be focusing increasingly on these measures as well. At a February 26 hearing of the House Homeland Security subcommittee on border and maritime security, Chief Michael Fisher testified that:

No longer will apprehensions alone be the anchor metric. Instead, we will concentrate on the likelihood of apprehension once entry is detected in areas of significant illegal activity. And where this makes sense, 90 percent effectiveness is our goal.

Known flow data has been collected since at least 2000, and probably longer. As in the case of other administrative data, it would be useful if Border Patrol released all of its known flow data in a timely fashion and worked with the external researcher community to improve understanding of enforcement outcomes.

To conclude this section, the methodology for estimating apprehension rates and gross inflow between the ports of entry remains a work in progress. The recidivist and known flow methods, for example, produce quite divergent results, with the former likely underestimating the effectiveness of enforcement and the latter likely overestimating effectiveness. All three methodologies, however, show significant enforcement gains over time. Fuller public release of such data to allow for assessment by external researchers, as well as additional investments in data gathering, could be extremely valuable in improving the accuracy and utility of these measures.

### ***Illegal Entry at the Ports***

Evidence on illegal entry at the ports is scarce, which is ironic given that this is the environment in which CBP exercises by far the greatest control. The Office of Field Operations (OFO) in CBP began in 2004 collecting data on apprehensions of illegal crossers at the ports. The annual number of apprehensions at

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<sup>12</sup> There are methodological issues related to the calculation of apprehension rates using the known flow method. Border Patrol calculates an overall “effectiveness ratio” for a sector by adding together apprehensions and turn-backs, and dividing this by the sum of apprehensions, turn-backs, and got-aways. This approach thus treats a turn-back as equivalent to an apprehension as an enforcement outcome. In reality, a turn-back either creates at-the-border deterrence (if the person gives up) or only delays resolution of the unauthorized crossing through apprehension or successful entry. The problem with both of these measures is that they include turn-backs, which makes them inconsistent with measures of the probability of apprehension based on migrant surveys and recidivism analysis. Under those approaches, the ratio is equivalent to apprehensions divided by apprehensions plus got-aways.

ports on the southwest border, which has not been published by DHS, was likely in the tens of thousands in the late 2000s, a fraction of the numbers between the ports. One of the migrants surveys, the MMFRP, does ask in interviews whether migrants crossed illegally at the ports or between ports of entry. These data suggest that a significant minority of entries are attempted through the ports, and that not accounting for these entries leads to an underestimation of gross inflow. The survey data has found that anywhere between 9 percent and 37 percent of illegal crossers report having travelled through the ports of entry.

In theory, it should be possible to measure apprehension rates and gross inflows through the ports. DHS implements a program of randomized secondary inspections of passenger vehicles called COMPEX that could be used to generate data on the probability that vehicle passengers attempting unauthorized entry succeed in getting through primary inspection. It is not known if such estimates have been made by DHS.

### *Visa Overstays*

Another relevant measure, though it does not directly relate to southwest border land crossings, is the issue of visa overstays. The commonly accepted estimate is that more than 40 percent of the unauthorized migrants currently resident in the United States did not cross the borders illegally.<sup>13</sup> Instead, they arrived in the United States on a lawful tourist, student, business, or other visa and then violated the terms of that visa by remaining in the United States. DHS currently has the capability to provide a reasonably accurate estimate of the number of visa overstays from each country, but has not released this information to Congress or the public. Since 2004, all visa travelers have been fingerprinted on arrival in the United States through the US-VISIT system. While no biometric exit system has been established, the departure of passengers through airports is tracked closely through the Arrival and Departure Information System (ADIS), which relies on passport data and travel records.

The United States and Canada are also planning to share all land border arrival and departure data on third country nationals as part of the ongoing "Beyond the Border" initiative, launched by President Obama and Canadian Prime Minister Harper in February 2011.<sup>14</sup> Congress has asked for country-by-country visa overstay records, which are a necessary part of proposed legislation that would base future entry by countries into the Visa Waiver Program on actual overstay records, rather than the current legal standard which is based on the percentage of visa applications refused by the State Department.<sup>15</sup>

The one public release of data by DHS related to visa overstays suggests that the scale of the problem may be exaggerated. In May, 2011, DHS Secretary Napolitano ordered an investigation into nearly 1.7 million

<sup>13</sup> Bean, Frank D., Barry Edmonston, and Jeffrey S. Passel, Editors, 1990, *Undocumented Migration to the United States: IRCA and the Experience of the 1980s*, The Urban Institute Press, Washington DC; and Pew Hispanic Center, 2006, "Modes of Entry for Unauthorized Migrant Population," Fact Sheet at: <http://www.pewhispanic.org/2006/05/22/modes-of-entry-for-the-unauthorized-migrant-population/>.

<sup>14</sup> The U.S. and Canadian governments are engaged in ongoing negotiations on the implementation of the BTB Action Plan. A pilot project on the sharing of fingerprint identities for third country nationals has been launched at some ports of entry. See the joint December 2012 "Beyond the Border Implementation Report" at: [http://www.whitehouse.gov/sites/default/files/docs/btb\\_implementation\\_report.pdf](http://www.whitehouse.gov/sites/default/files/docs/btb_implementation_report.pdf).

<sup>15</sup> The *Visa Waiver Program Enhanced Security and Reform Act*, introduced in February, 2013 by Senators Mark Kirk (R-IL) and Barbara Mikulski (D-MD) would require applicant countries to maintain an average non-immigrant visa overstay rate not greater than 3 percent.

records of individuals that the department believed had overstayed since the introduction of US-VISIT in 2004. But the review determined that more than half of those had actually left the country or had adjusted status and were living in the United States legally.<sup>16</sup> DHS has promised since the summer of 2011 to release country-by-country visa overstay data, but has failed to do so.

## Recommendations

For the past two decades, Congress has vastly increased the resources devoted to border enforcement. Total miles of pedestrian and vehicle fencing increased from seventy-six miles in FY2001 to 652 miles in FY2012. Border Patrol personnel have doubled since 2004 to 21,394, with all but 2,200 of these deployed along the southwest border. Some 337 Remote Video Surveillance Systems, 198 short- and medium-range Mobile Vehicle Surveillance Systems and forty-one long range surveillance systems are deployed, along with fifteen fixed towers and more than 13,000 ground sensors. CBP also operated ten unmanned aerial vehicle systems (UAVs) along the southwest border.<sup>17</sup>

What Congress has failed to do, however, is to insist on any accountability for the effectiveness of these huge enforcement expenditures. With the U.S. government facing tight budget restrictions for the foreseeable future, it is imperative that Congress demand cost effectiveness evaluations from DHS, and establish a robust oversight system to evaluate the effectiveness of enforcement measures on an ongoing basis. In addition to protecting taxpayer dollars and increasing the impact of enforcement spending, such oversight and accountability would help to reassure a skeptical public that the U.S. government is indeed serious about controlling illegal migration.

In a recent report for the IBM Center for the Business of Government, Dr. Whitley points out that local law enforcement has undergone something of a management revolution in the past two decades, based on improved measurement and reporting of outcomes.<sup>18</sup> Federal law enforcement, however, has been slower to adopt such reforms. The best known case in local law enforcement was the creation of the CompStat reporting system by the New York City Police Department in 1994, which requires precinct commanders to report statistics for all crimes in their jurisdiction on a weekly basis, and makes those statistics available to the public. That transparency has significantly influenced the public debate over crime and policing expenditures in New York City, focusing the debate as much as possible on actual crime rates and how they change as police practices and expenditures are altered. The U.S. government needs a similar transparency revolution with respect to the reporting of outcomes on immigration enforcement.

It is widely recognized that in order to be accepted and effective, performance measures must be:

- *Meaningful and understandable.* In order to enjoy credibility with stakeholders, measures should be clear and readily understandable.

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<sup>16</sup> Testimony of John Cohen, principal deputy coordinator for counterterrorism at DHS before the House Homeland Security Subcommittee on Border and Maritime Security, September 12, 2011.

<sup>17</sup> This is drawn from Rosenblum testimony, February 26, 2013.

<sup>18</sup> Whitley, John, 2012, "Five Methods for Measuring Unobserved Events: A Case Study of Federal Law Enforcement," IBM Center for the Business of Government.

- *Valid.* The data that performance measures are based on must not be systematically biased or distorted. In particular, data must not be subject to observer bias, or systematic over- or underreporting.
- *Reliable.* Collection of data must be consistent and uniform over time and across reporting units.
- *Timely and actionable.* Results should be useful to informing policy decisions and resource allocation.
- *Balanced and comprehensive.* An agency's set of performance measures should provide a complete performance picture.

The primary outcome of law enforcement activity, and therefore outcome performance measures for any law enforcement organization, is the rate at which the laws under their jurisdiction are broken. For U.S. immigration law, the primary outcome measures concern the numbers and rate at which individuals enter illegally and/or reside in the country unlawfully. For the management of illegal migration, the performance measures should include at least those presented in Table 1 above—illegal entry between the ports, illegal entry at ports, visa overstays, the total stock of unauthorized migrants, voluntary departures, and law enforcement removals.

Such data are prerequisite to more successful policies in the future. The U.S. government is currently incapable of giving data-informed answers to some of the most basic questions in immigration management, such as:

- Would new legal programs for lower-skilled migrants reduce the incentive to migrate illegally to the United States?
- Would increased workplace enforcement do more to deter future illegal immigration than increased border enforcement? Where would expenditures be more effective?
- Where are the vulnerabilities for increased illegal migration the largest: at the ports of entry, between ports, or through visa overstays?

In an effort to produce more policy-relevant data and improve ongoing oversight and management of expenditures, Congress should require the following as part of any forthcoming immigration legislation:

- 1) The full set of outcome performance measures identified in Table 1 above, and a performance management system, should be developed for enforcement of immigration laws. Congress should make the development and reporting by the Obama administration of such performance measures mandatory, and tie this to future appropriations. In addition, a comprehensive research agenda should be sponsored that analyzes the effects of output and inputs on law enforcement outcomes. DHS should be estimating empirically the effects of different enforcement activities on illegal immigration flows.
- 2) Performance data should be used in the ongoing management of illegal immigration. The Department of Homeland Security should establish an early warning system that monitors the outcome performance measures identified above along with economic, demographic, law enforcement, and other trends that may affect these outcomes. This should include both the monitoring of relevant measures and the analytic ability to forecast them into the future.

- 3) Congressional oversight should be strengthened to maintain focus on successful management of illegal migration. Relevant committees in Congress should hold regular, perhaps quarterly, hearings to review the early warning system data and forecasts, examine trends in outcome performance measures, and assess DHS proposals for adjustments to its strategies as conditions on the ground change.
- 4) A better understanding of the full range of options for reducing illegal immigration is required. DHS should systematically engage in program evaluation analysis that measures the effectiveness of individual programs with respect to the outcome performance measures identified in the report. This should include both law enforcement programs and additional tools such as expanded legal entry programs as a means of discouraging illegal migration. All new programs should include a program evaluation plan at their initiation. These program evaluation plans should identify measures, data collection methods, and evaluation milestones for the program. To strengthen Congressional oversight, program evaluation results should be provided to the Congress, and discussions of program evaluation results and implications should be included in the regular oversight hearings recommended above.

Thank you, and I would be happy to respond to your questions.

Edward Alden is the Bernard L. Schwartz senior fellow at the Council on Foreign Relations (CFR), specializing in immigration, visa policy and U.S. economic competitiveness. Mr. Alden is the author of *The Closing of the American Border: Terrorism, Immigration and Security Since 9/11*. He was the project director for the CFR *Independent Task Force on U.S. Immigration Policy*, which was co-chaired by former Florida governor Jeb Bush and former White House chief of staff Thomas F. McLarty.

**EFFECTS AND EFFECTIVENESS OF U.S. BORDER SECURITY MEASURES**  
Testimony for the Committee on Homeland Security and Governmental Affairs hearing on  
on "Border Security: Measuring the Progress and Addressing the Challenges"  
Thursday, March 14, 2013 in SD-342, Dirksen Senate Office Building  
By  
Dr. David A. Shirk  
Trans-Border Institute  
University of San Diego



**U.S. IMMIGRATION AND BORDER SECURITY: TRENDS, ENFORCEMENT,  
AND METRICS**

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## U.S. IMMIGRATION AND BORDER SECURITY: TRENDS, ENFORCEMENT MEASURES, AND METRICS

By Dr. David A. Shirk  
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University of San Diego

### Executive Summary

The U.S.-Mexico border has become increasingly fortified over the last two decades, as U.S. authorities have deployed greater manpower, technology, and physical barriers to prevent the entry of unauthorized immigrants and other perceived threats into U.S. territory. The current border security regime represents an enormous shift from the not so distant past, when the Southwest was a vast, sparsely populated frontier. Over the course of the last century, efforts to improve border enforcement evolved dramatically as a result of reactions to a series of crises related to questions of national identity, nativism, and nationalism in the early 20<sup>th</sup> century; cross-border smuggling and the war on drugs in the mid- to late-20<sup>th</sup> century; and, more recently, terrorism and national security in the early 21<sup>st</sup> century.

Whether these efforts have been effective—and worth the cost—is a matter of considerable debate. At this particular moment, this debate is of especially large consequence. There are presently an estimated 11 million people residing or working in the United States without authorization, either because they entered the country illegally or violated the terms of their immigration status. Both the Obama administration and lawmakers from both major parties have conditioned any forward movement on immigration reform to address this issue upon securing the border effectively.

In the preparation of my testimony, I examine the question of border security effectiveness by: 1) providing an overview of U.S. immigration trends, 2) tracing the evolution of current efforts to combat unauthorized immigration and other border security challenges, and 3) discussing the metrics currently used to evaluate effectiveness. I find, on the one hand, that there has been a tremendous effort by the U.S. government to increase border security in response to the dramatic increase in immigration flows over the last two decades. There is also significant evidence that immigration flows have been affected in a variety of ways, including new routes, methods of entry, and periods of duration in the United States.

On the other hand, available metrics do not appear to support the idea that border security measures have significantly reduced immigration flows. There is considerable room for improvement in the current metrics used to measure the effectiveness of border security. Almost all of the most commonly used metrics of border security effectiveness are proxy indicators. Because we are trying to measure unknowns, we necessarily resort to extrapolation based on arrest and seizure data that provides a highly imperfect indication of performance. As a result, at present, there is very little evidence that further investments in border security will yield the desired result. Moreover, it seems plausible higher fences, greater manpower, and more technology will be ineffective in significantly reducing unauthorized immigration flows in the absence of reforms to facilitate the process for both legal immigration and temporary guest worker status.

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### Introduction

The U.S.-Mexico border has become increasingly fortified over the last two decades, as U.S. authorities have deployed greater manpower, technology, and physical barriers to prevent the entry of unauthorized immigrants and other perceived threats into U.S. territory. The current border security regime represents an enormous shift from the not so distant past, when the Southwest was a vast, sparsely populated frontier. Over the course of the last century, efforts to improve border enforcement evolved dramatically as a result of reactions to a series of crises related to questions of national identity, nativism, and nationalism in the early 20<sup>th</sup> century; cross-border smuggling and the war on drugs in the mid- to late-20<sup>th</sup> century; and, more recently, terrorism and national security in the early 21<sup>st</sup> century.

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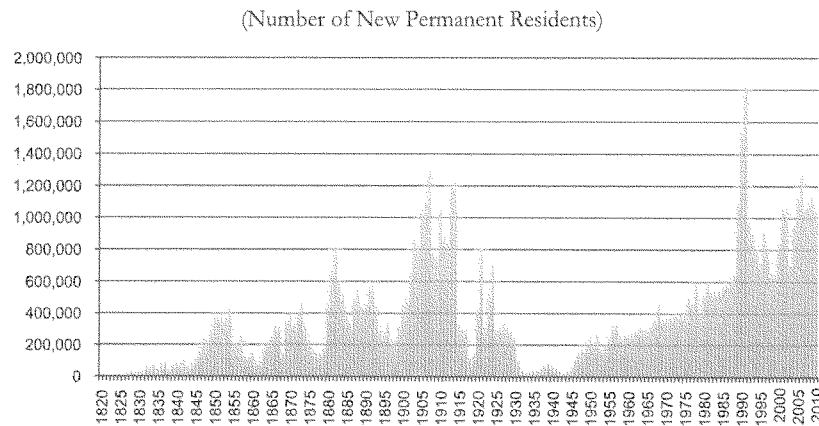
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### Background: The Origins of U.S. Immigration Control Policy

The inflow of U.S. immigrants has varied significantly over time, bringing newcomers in multiple, distinct waves during the course of the 19<sup>th</sup> century and 20<sup>th</sup> centuries. Early U.S. immigration policy was fairly permissive, and the country experienced fluctuating waves of immigration in the 19<sup>th</sup> century (See Figure 1).<sup>1</sup> Major surges included the massive influx of Irish and German in the 1840s. By the late-19<sup>th</sup> century, immigrants hailing from Southern and Eastern Europe helped fuel a wave of “new” immigrants that peaked around 8.8 million people from 1900-1910. It is worth noting that significant decreases in immigration occurred during times of trouble in the United States, including the recessions of the 1850s, the Civil War, and the “first” Great Depression in 1873.<sup>2</sup> In any case, throughout the 19<sup>th</sup> century, there were few significant immigration-related concerns related to U.S. borders or land-based ports of entry. Rather, the focus of border concerns had to do more with their expansion and the elimination or expulsion of original inhabitants of these territories.

Figure 1: Annual Immigration to the United States, 1820-2010



Source: Immigration and Naturalization Services and Department of Homeland Security. Note: For most of the 19<sup>th</sup> century, figures for new immigrants primarily include individuals to U.S. seaports and, starting in 1868, other points of entry (with all land arrivals included in the tally from 1908 onward). For most of the 20<sup>th</sup> century, official figures include all immigrant aliens admitted for permanent residence.  
<http://www.dhs.gov/files/statistics/publications/LPR10.shtm>

During the first half of the 19<sup>th</sup> century the U.S. government imposed relatively few restrictions on immigration. Newcomers to the United States were essentially accepted automatically as citizens after an initial two-year period of residency under the Naturalization Act of 1790. Simultaneously, this act ironically imposed the country's first immigration restrictions by excluding Native Americans from eligibility for naturalization. Later, additional criteria were introduced and residency requirements were increased to five years in 1795 and temporarily extended to fourteen years under the 1798 Alien and Sedition Acts,

<sup>1</sup>

<sup>2</sup>

which also first established the authority of the executive branch to deport resident aliens.<sup>3</sup> Over the next six decades, however, the federal government imposed no major immigration restrictions or policy measures, despite an 1849 Supreme Court ruling that established Congress's exclusive jurisdiction over immigration.

To be sure, after the U.S.-Mexican War of 1846-68, there were significant efforts by the U.S. federal government, and at the state and local level, to discourage former-Mexican nationals—known as *Mexicanos*, *Tejanos*, and *Californianos*—from remaining in U.S. territory. There were, also, state and local measures that sought to exclude or curtail the rights of immigrants, particularly in California and other parts of the Southwest where anti-immigrant reactions were especially strong in response to laborers imported from China to build the railroads that fueled the boom. Collectively, these measures illustrated the dividing lines that began to identity—and the establishment of white power—in the border region, setting the stages for policies and tensions over race and immigration for decades to come.

The Civil War marked a critical juncture in U.S. immigration history, as the post-bellum era brought two significant changes. First, the 14<sup>th</sup> amendment codified the right to *jus soli*, or “birthright” citizenship, for all persons born in the United States in 1868. The precedent for birthright citizenship already existed, but now extended the concept to Native and African Americans in a significant revision of the U.S. construct of national identity. For contemporary relevance, the fact that the legal basis for birthright citizenship became enshrined in the U.S. constitution also presented a high legal obstacle to modern day nativists who continue to protest the idea that the U.S. born children of “aliens” should have citizenship. Second, the federal government began to exercise greater centralized authority in regulating immigration, with a series of exclusionary laws—notably the 1862 Anti-Coolie Act, the 1875 Immigration Act, 1882 Chinese Exclusion Act, the 1907 Gentlemen's Agreement, and the 1903 Immigration Act—that banned the immigration of Asians, criminals, prostitutes, and the mentally impaired and supplanted similar measures previously developed in certain states. Again, as I discuss in more detail in the next section, these measures played out prominently in the border region, setting the foundation and tone for immigration enforcement in the 20<sup>th</sup> century.<sup>4</sup>

Trends at the national level began to shape immigration policies in ways that would lead to major changes along the border. The massive influx of people at the turn of the 19<sup>th</sup> century exceeded any previous wave of immigrants to the United States in absolute terms, and increased the resident population by nearly 12%. It also provoked a strong nativist reaction, and inspired new legislation imposing new restrictions on immigrants (e.g., literacy tests) and a series of national origins quotas that culminated in the Immigration Act of 1924. Adding to these restrictions, global economic instability and war brought international migration to a historic low by the 1930s and 1940s. However, the number of immigrants to the United States gradually increased during the post-war era, thanks partly to a more liberal policy environment. Most significantly, the 1965 Immigration and Nationality Act abolished previous discriminatory restrictions and country quotas. Under the 1965 immigration system,

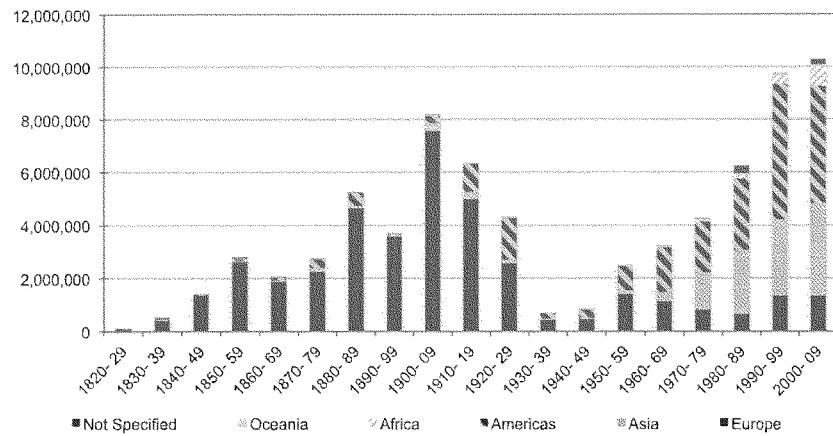
<sup>3</sup> Matthew Spalding, 'From Pluribus to Unum: Immigration and the Founding Fathers', *Policy Review*, (Winter 1994 1994).

<sup>4</sup> They also led to interesting developments in the borderlands as many Asian immigrants fled to Mexico to avoid oppression in the United States; to this day, the best Chinese food in the Southwest is arguably found in the Mexican border town of Mexicali.

all countries were eligible for an equal number of visas (170,000 annually), and a new formula was developed for additional family reunification and employment visas.

This new policy regime was accompanied by—and also contributed to—two major trends in U.S. immigration. The first trend was a sharp change in demographics, as new inflows of immigrants came increasingly from the Americas and Asia (See Figure 2).<sup>5</sup> The second trend was a significant increase in unauthorized immigration in the 1970s, largely from Mexico and Central American countries that were previously exempt from national origins quotas.<sup>6</sup>

**Figure 2: Immigration to the United States by Decade and by Region, 1820-2009**  
(Number of New Permanent Residents)



Source: Immigration and Naturalization Services and Department of Homeland Security.  
<http://www.dhs.gov/files/statistics/publications/LPR10.shtm>

In the 1980s, as the United States rebounded from economic crisis, there was a dramatic surge in immigration from the Americas and from Asia. In a single decade, the number of Latin American immigrants increased by roughly 50% (from 1.9 million in the 1970s to nearly 2.7 million in the 1980s), while the number of Asian immigrants grew 70% (from 1.4 million in the 1970s to nearly 2.4 million in the 1980s). Migration from the Americas was driven largely by economic and political instability, with large numbers of immigrants coming from Mexico and Central America. Likewise, economic crises and structural reforms in several Asian countries brought numerous immigrants from the Philippines, China, South Korea and India.

<sup>5</sup> This shift actually began during the war, when large numbers of Mexican and Central American immigrants were recruited under the Bracero Program initiated in 1943. The war also resulted in the December 1943 repeal of the Chinese Exclusion Act (due to the U.S.-China alliance), and the 1965 War Brides Act.

<sup>6</sup> While there are few reliable estimates for the number of unauthorized persons residing in the United States prior to the 1980s, estimates range from 2 to 12 million. Marc R. Rosenblum, 'Border Security: Immigration Enforcement between Ports of Entry', *CRS Report for Congress* (Washington, D.C.: Congressional Research Service, 2012), p. 1.

Along with these flows of legal immigrants, the number of unauthorized immigrants grew significantly during the 1980s. Rosenblum (2012) notes that the estimated number of unauthorized aliens grew from 1.7 million in 1979 to 3.2 million in 1986. To address the surge in unauthorized immigration, U.S. lawmakers introduced new legislation—the 1986 Immigration Reform and Control Act (IRCA)—which granted amnesty to nearly 2.7 million unauthorized persons, while also mandating new employment regulations and stronger border controls to prevent further unauthorized immigration.

Despite these measures, unauthorized immigration continued and even accelerated after IRCA. Observers cited several reasons, including continued rigidity in visa quotas, inadequate measures to boost border controls, and the fact that amnesty appeared to increase the incentives for family members to migrate to the United States. As amnesty failed to assuage the influx of immigrants, anti-immigrant sentiments grew and politicians increasingly called for tougher measures to prevent the entry of unauthorized immigrants to the United States. For many, the solution to the unbridled flow of immigrants was to “beef up” the border, an approach rooted in the long and particular historical evolution of U.S. immigration controls in the Southwest. Below, I examine the evolution of U.S. border enforcement measures as an outgrowth of the particular policy concerns that accompanied immigration during the 20<sup>th</sup> century.

#### **The Evolution of U.S. Border Enforcement**

As noted above, the U.S.-Mexico border was subject to relatively little enforcement of immigration controls at or between official points of entry throughout most of the 19<sup>th</sup> century. It is remarkable that the border remained largely “unprotected” in the wake of the hostilities of the U.S.-Mexican war, which ceded nearly half of Mexico’s territory to the United States under the 1848 Treaty of Guadalupe Hidalgo. In an effort to secure newly acquired territory throughout the 19<sup>th</sup> century, sporadic patrols were formed by the U.S. military, local law enforcement authorities, and white vigilante groups that clashed intermittently with the original Native American inhabitants, conquered Mexican settlers, and Chinese and Japanese immigrants drawn to the Southwest as agricultural workers.<sup>7</sup> However, by and large, the border was a vast, open frontier subject to relatively little state control for most of the 19<sup>th</sup> century.

The first documented immigration enforcement efforts between points of entry were introduced in 1904, when the U.S. Immigration Service organized mounted patrols of immigration inspectors, primarily in an effort to prevent the entry of Chinese immigrants barred from entry to the United States.<sup>8</sup> These early mounted patrols were based in El Paso, Texas, and had little manpower and few designated resources; the border patrol began with just 75 inspectors.<sup>9</sup> The U.S. Congress formally gave the U.S. Immigration Service authority

<sup>7</sup> Kelly Lytle Hernandez, *Migrant: A History of the U.S. Border Patrol* (American Crossroads; Berkeley, Calif.: University of California Press, 2010) xvi, 311 p.

<sup>8</sup> These efforts were supported by occasional law enforcement and military patrols along the border. “Border Patrol History,” Customs and Border Protection, Online document drafted January 20, 2010. [http://www.cbp.gov/xp/cgov/border\\_security/border\\_patrol/border\\_patrol\\_ohs/history.xml](http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml) (Accessed January 20, 2012).

<sup>9</sup> Deborah Waller Meyers, ‘U.S. Border Enforcement: From Horseback to High-Tech’, (Washington, D.C.: Migration Policy Institute, 2005).

to create designated mounted patrols within the Immigration Service in 1915, though immigration authorities continued to argue for a specific agency for the purpose of patrolling the border.<sup>10</sup>

According to Lytle-Hernandez (2010), with the passage of the national origins quotas established by the Immigration Act of 1924, Congress immediately approved the Labor Appropriation Act of 1924 that created the U.S. Border Patrol to prevent the entry of immigrants between ports of entry. The new agency was housed within the Immigration Bureau of the Department of Labor, appropriated a budget of \$1 million, and charged with a mandate to enforce U.S. immigration laws along the northern and southern land borders. Later, Congress passed the Aliens and Nationality Act of 1925, which granted the agency broad powers to detain or arrest aliens in order to enforce immigration law.<sup>11</sup>

In the early days of the Border Patrol, the nearly 2,000-mile border had no fencing and was largely unguarded. As a new law enforcement agency, the Border Patrol faced a daunting challenge and few resources at the outset. The agency had fewer than 500 poorly trained and ill-equipped inspectors. While some were drawn the Texas Rangers and from Mounted Patrol units, the vast majority came from non-law enforcement backgrounds.<sup>12</sup> These new Border Patrol inspectors were literally handed a gun and a badge, but had no standardized uniforms until 1928 or official training academy until 1934.<sup>13</sup> Most inspectors patrolled the border by horseback; inspectors provided their own horse and gear, while the federal government provided feed.<sup>14</sup>

From these inauspicious beginnings, the Border Patrol grew relatively quickly as U.S. concerns about border security grew as a result of the enforcement of Prohibition, the Great Depression, and the outbreak of World War II. In 1932, new command posts were established on both the northern and the southern border, in Detroit and El Paso respectively, as the agency's jurisdiction was expanded include not only immigration offenses

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<sup>10</sup> In a 1918 communication from Supervising Inspector Frank W. Berkshire wrote to U.S. Commissioner-General of Immigration Anthony Caminetti, lobbying for an agency that could be specifically tasked with immigration and customs enforcement along the U.S.-Mexico border. Berkshire is cited as stating, "If the services of men now being drafted cannot be spared for this work, it may be that the various departments vitally interested would give favorable consideration to the formation of an independent organization, composed of men with out the draft age. The assertion is ventured that such an organization, properly equipped and trained, made up of seasoned men, would guard the border more effectively against all forms of lawlessness than a body of soldiers of several times the same number." "Border Patrol History," Customs and Border Protection, Online document drafted January 20, 2010.

[http://www.cbp.gov/xp/cgov/border\\_security/horder\\_patrol/border\\_patrol\\_ohs/history.xml](http://www.cbp.gov/xp/cgov/border_security/horder_patrol/border_patrol_ohs/history.xml) (Accessed January 20, 2012).

<sup>11</sup> According to Lytle-Hernandez, the Supreme Court had previously established precedent in the 1916 case of *Lew Moy vs. the United States* that aliens would be considered to be entering the country until they had reached their final destination within the United States.

<sup>12</sup> Lytle-Hernandez (2010).

<sup>13</sup> The first Border Patrol academy was inaugurated for a class of 34 inspectors in December 1934 at Camp Chigas, El Paso.

<sup>14</sup> "Border Patrol History," Customs and Border Protection, Online document drafted January 20, 2010. [http://www.cbp.gov/xp/cgov/border\\_security/horder\\_patrol/border\\_patrol\\_ohs/history.xml](http://www.cbp.gov/xp/cgov/border_security/horder_patrol/border_patrol_ohs/history.xml) (Accessed January 20, 2012).



but also the burgeoning industry of cross-border smuggling.<sup>15</sup> Meanwhile, the demand for the Border Patrol's services grew amid the concerns of the prohibition era, the collapse of the U.S. economy led to a backlash against Mexican immigrants and even U.S. citizens of Mexican descent, as many as a million of whom returned home or were involuntarily "repatriated" due to the lack of jobs.<sup>16</sup> By 1940, when the agency was transferred from the Department of Labor to the Department of Justice, its personnel grew from 916 to over 1,500 inspectors.<sup>17</sup> The war introduced new responsibilities for the agency, as inspectors were detailed to supervise internment camps for U.S. citizens of Japanese descent and to assist in the detection of airborne and maritime enemy invaders in border states.

The end of the war re-focused the agency on immigration control with a new intensity at the height of the Bracero Program, a guest-worker program that provided special visas for manual and agricultural laborers beginning in 1942.<sup>18</sup> Over course of the 22 years during which the program was in place, nearly four and a half million Mexican and Central American workers were admitted to the United States on a temporary basis. The program was initiated to address the shortfall in manual labor caused by the war effort, but persisted for years afterwards due to the demand from employers for relatively cheap manual labor. Although the Bracero Program was tarnished by deplorable treatment and labor conditions for these workers, the program was the result of a bi-national agreement between the U.S. and Mexican federal governments. As such, it provided for certain protections and employer responsibilities, including standardized wages, housing, health services, a pension upon repatriation, and payment of transportation costs from the home country. The spirit of cooperation between the United States and Mexico during wartime contributed to what many deemed a successful program, at least on paper.

Unfortunately, the number of visas available under the Bracero Program was insufficient to match the supply of willing laborers and the demand from employers, and millions of undocumented workers continued to flood into the U.S. labor market during the 1940s and 1950s. One major problem was that employers in the state of Texas were excluded from the Bracero Program, due to Mexican concerns about practices in that state that contributed to "widespread violation of contracts, discrimination against migrant workers, and such violations of their civil rights as perfunctory arrests for petty causes."<sup>19</sup> Another problem was that the program required laborers to be assigned to a sponsoring employer, and large

<sup>15</sup> In 1933, the Bureau of Immigration and the Bureau of Naturalization were folded into a single agency known as the Immigration and Naturalization Service.

<sup>16</sup> Dunn (1996) estimates the number of immigrants repatriated during the Great Depression between 500,000 and 1 million. Timothy J. Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home* (1st edn., Cmas Border & Migration Studies Series; Austin: CMAS Books University of Texas at Austin, 1996). p. 13.

<sup>17</sup> Lytle-Hernandez indicates that there were 916 inspectors in 1939. The Border Patrol indicates that in 1940 "[a]n additional 712 agents and 57 auxiliary personnel brought the force to 1,531 officers. Over 1,400 people were employed by the Border Patrol in law enforcement and civilian positions by the end of WWII." It is not clear why there were fewer personnel by the end of the war than in 1940. "Border Patrol History," Customs and Border Protection. Online document drafted January 20, 2010. [http://www.cbp.gov/xp/cgov/border\\_security/border\\_patrol/border\\_patrol\\_ohs/history.xml](http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml) (Accessed January 21, 2012).

<sup>18</sup> Public Law 78.

<sup>19</sup> Fred L. Koester, "Operation Wetback," *The Handbook of Texas Online*, Texas State Historical Association, Online Document. (Accessed February 2, 2012). <http://www.tshaonline.org/handbook/online/articles/pqo01>

numbers of Mexicans entered the country without proper permission and/or violated the terms of the program by seeking employment with employers other than the ones who sponsored them.

By the end of the Truman administration (1945-53), there were significant concerns over the growing number of unauthorized immigrants, as well as increasing frictions with Mexico over the poor treatment of workers enrolled in the program. In 1951, the Mexican government temporarily suspended its participation in the program, a change in policy that was ignored by many U.S. employers and Mexican migrants, who continued to enter the country illegally and fueled a sizeable increase in unauthorized immigration. The Border Patrol responded by diverting personnel from the Canadian border, assigning specialized units to deport unauthorized immigrants in both border and interior states, and employing boats and airlifts to repatriate tens of thousands of immigrants to the Mexican interior.<sup>20</sup>

Under the Eisenhower administration (1953-61), the president enlisted the services of the Border Patrol in a massive effort to expel unauthorized Mexicans, known as “Operation Wetback.” The total number of unauthorized immigrants deported under the program is disputed, but certainly hundreds of thousands and perhaps over a million people were returned to Mexico. In conducting the operation, the Border Patrol employed mass roundups in large swaths of territory both to detain and encourage unauthorized immigrants to flee back into Mexico. Thus, in addition to those deported by Border Patrol sweeps, tens of thousands of Braceros and unauthorized laborers also likely returned “voluntarily” to Mexico. At the same time, these efforts converted much of the southwest into a hostile place for all people of Mexican descent, since the Border Patrol regularly harassed and even wrongly deported U.S. citizens in its zeal to remove unauthorized Mexicans.<sup>21</sup>

Hence, Operation Wetback firmly established the reputation of the Border Patrol for discriminatory treatment and occasional brutality against immigrants, and specifically Mexicans. Operating at the fringes of the state, agents had substantial discretion and autonomy to define their role in the day-to-day reality of the borderlands. For example, Border Patrol agents had—and still have—the authority to detain, interrogate, or arrest without a warrant whenever there is suspicion that an individual is in violation of U.S. immigration law.<sup>22</sup> Border Patrol agents asserted such authority forcefully—and abused it in many cases—over the course of the agency’s history.

At the same time, Operation Wetback greatly expanded and consolidated the Border Patrol’s role as a critical mechanism for border enforcement. The role of the Border Patrol arguably

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<sup>20</sup> “Border Patrol History,” Customs and Border Protection. Online document drafted January 20, 2010. [http://www.cbp.gov/xp/cgov/border\\_security/border\\_patrol/border\\_patrol\\_ohs/history.xml](http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml) (Accessed January 21, 2012).

<sup>21</sup> Dunn (1996) points out that the overall deportation effort was largely supported by the Mexican government as a means to protect the interests of Mexicans participating in the Bracero Program. Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home*.

<sup>22</sup> In 1981, the Supreme Court’s ruling in the case of *United States v. Cortez* found that the Border Patrol agents in that case had the discretion to detain and search individuals based on the “totality of the circumstances,” which essentially granted them the ability to disregard protections from discriminatory racial profiling. That case has since provided a legal precedent for extending to other law enforcement officers the same kind of discretion long exercised by immigration authorities along the border.

became even more significant following the termination of the Bracero Program in 1964, which was followed by the 1965 Immigration and National Act. In addition to creating new country quotas—not based on the discriminatory criteria of the 1920s—the new immigration regime also thereby eliminated special exemptions from such quotas that existed previously for Mexican and Central Americans. With an end to special guest worker visas and new caps on immigration from these countries, the phenomenon of unauthorized immigration proliferated during the late 1960s and 1970s. This provided ample work for Border Patrol agents to continue and intensification its immigration enforcement efforts along the border.<sup>23</sup> By the 1980s, continued concerns about undocumented immigration and the passage of IRCA in 1986 dramatically expand the ranks and resources available to border enforcement agencies.

Border enforcement efforts also intensified significantly in the 1980s due to the proliferation of cross-border smuggling and other criminal activities in the Southwest. While Mexico had been a source of smuggled contraband since the Prohibition Era, the growth of the illicit drug trade enabled Mexican smuggling organizations to proliferate and grow far more powerful than in the past.<sup>24</sup> This was particularly the case during the 1970s and 1980s, as Mexican traffickers began to develop supporting operations to move product for Colombia's drug cartels. While the Colombians primarily trafficked cocaine through the Caribbean and the Gulf of Mexico to deliver the product to Miami, Florida, law enforcement efforts and tighter interdiction forced traffickers to reroute their activities inland to Central America and Mexico.<sup>25</sup> As Mexican traffickers became the inheritors of fallen Colombian kingpins, the share of cocaine passing through Mexico into the United States grew from 30% in the mid-1980s, to at least 50% by the late-1990s, and to 90% in the mid-2000s.<sup>26</sup>

As the Reagan administration (1981-89) ramped up U.S. counter-drug enforcement efforts, the INS strongly asserted itself in this area. The adoption of drug enforcement as a primary mission of the INS, and specifically the Border Patrol, led to a qualitative shift in the agency's role and character. In the context of the fight against organized crime, the agency and border enforcement measures in general became increasingly "militarized," according to Dunn's (1996) characterization. Borrowing from the doctrine of "low intensity conflict" or

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<sup>23</sup> By 1970, Border Patrol operational personnel were reclassified from being "inspectors" to being "agents," reflecting a shift in the internal culture of the agency.

<sup>24</sup> Luis Astorga Almanza and David Shirk, 'Drug Trafficking Organizations and Counter-Drug Strategies in the U.S.-Mexican Context', in Eric Olson, Andrew Selee, and David A. Shirk (eds.), *Shared Responsibility: U.S.-Mexico Policy Options for Confronting Organized Crime* (Washington, D.C.; San Diego, CA: Woodrow Wilson International Center for Scholars; Trans-Border Institute, Joan B. Kroc School of Peace Studies, University of San Diego, 2010).

<sup>25</sup> Eva Bertram et al., *Drug War Politics: The Price of Denial* (University of California Press; Berkeley, Los Angeles, 1996), William O. Walker III (ed.), *Drugs in the Western Hemisphere: An Odyssey of Cultures in Conflict* (Jaguar Books on Latin America, Wilmington, DE: Scholarly Resources, 1996).

<sup>26</sup> In 2005, the State Department's International Narcotics Control Strategy Report indicated that the Drug Enforcement Agency (DEA) estimated that 55% of cocaine entering the United States flowed through Mexico. In 2008, the State Department's International Narcotics Control Strategy Report estimated that this percentage had increased to 90%. In January 2011, a report prepared by the same agency indicated that this percentage increased to 95%. While INL is a reasonably credible source on this point, there is little explanation available about how these estimates are obtained or how incremental increases are measured. U.S. Department of State, 'International Narcotics Control Strategy Report (Incsr)', (1; Washington, D.C.: Bureau for International Law Enforcement and Narcotics, 2011).

“counterinsurgency,” border enforcement increasingly relied on technologies and tactics often used in military combat:

- Helicopters and fixed-wing aircraft for transportation and reconnaissance;<sup>27</sup>
- Unmanned, remote controlled aerial drones equipped with cameras;
- Electronic sensors (for the detection of heat, sound, and vibration);
- Night vision, radar, and infrared equipment;
- Special forces units (e.g., Border Patrol Tactical Team, BORTAC);<sup>28</sup>
- High powered firearms (e.g., automatic and semi-automatic weapons);<sup>29</sup>
- Special detention facilities for detainees.

Such innovations were complemented by additional measures to fortify and facilitate operational control of border areas, including greater manpower, closed circuit television systems, high-powered lighting, as well as chain link fencing. The growth of the Border Patrol was particularly notable, as the number of agents grew from roughly 2,900 in 1980 to around 4,000 by 1994. In addition, the Immigration Act of 1990 called for new physical barriers along the border, which led the following year to the introduction of seven miles of corrugated metal fencing along the San Diego-Tijuana corridor, using military landing mats that were welded together and installed by Navy Seals.<sup>30</sup> While chain linked fencing had been installed in certain border areas in the 1970s, the introduction of a lengthier and more substantial “wall” along the border was a significant shift that invited both praise and criticism (including comparisons to the soon-to-be-defunct Berlin Wall).

Advocates of these intensified enforcement efforts lauded them as necessary and overdue measures to promote order in a time of turbulence along the border. In addition to the proliferation of drug trafficking, Mexico began to experience severe economic problems during the turbulent decade of the 1980s. In this context, a sense of lawlessness prevailed in key border corridors. Large numbers of would-be immigrants, smugglers, and petty criminals congregated in these areas, often using poorly guarded border zones as a staging area for incursions into the United States. Individuals who ventured into the no man’s land along the border became easy targets for predatory criminal activities, including robbery and rape. Meanwhile, residents on both sides of the border were subject to property crimes and other inconveniences that contributed to the mounting political support for an escalation of the strategy of concentrated border enforcement in the 1990s and 2000s.

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<sup>27</sup> Dunn notes that the number of helicopters operated by the Border Patrol increased significantly over the 1980s, from 2 in 1980 to 9 in 1982 and 22 in 1988 to 58 in 1992. The number of fixed wing aircraft went from 28 planes in 1981 to 46 in 1988 to 43 in 1992. Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home*. p. 43-44; 69.

<sup>28</sup> BORTAC was founded in 1984 and went on to participate in a wide range of law enforcement functions beyond immigration control, including counter-drug operations, crop eradication, and riot control.

<sup>29</sup> Dunn cites the introduction of M-14 and M-16 type rifles for special use to Border Patrol agents operating in dangerous situations. Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home*. p. 53.

<sup>30</sup> Ibid. p. 66-67.

### The Shift to Concentrated Border Enforcement in the 1990s and 2000s

Over the last two decades, the border region experienced a dramatic escalation of immigration control and security measures that radically transformed life in much of the Southwest. In the 1990s, this escalation was partly fueled by the above noted concerns about unauthorized immigration and drug trafficking, which were intensified by the trend toward U.S.-Mexican economic integration under the North American Free Trade Agreement (NAFTA). As numerous observers have noted, the intensification of enforcement measures during the NAFTA era was sharply at odds with the promise of a brave, new “borderless” world, and thereby illustrated the underlying contradictions and limits of globalization. By the advent of the new millennium, the September 11, 2001 terrorist attacks in the United States provoked a historically unprecedented expansion and reconfiguring border security measures in an effort to bolster U.S. national security from unseen enemies in an increasingly interconnected world.

### The NAFTA Era

IRCA had directly charged the Immigration and Naturalization Service (INS) —of which the Border Patrol was a part— with the task of reducing unauthorized immigration. As noted earlier, IRCA also likely made this task more difficult, as newly legalized immigrants provided a draw for relatives and friends to enter the United States, in many cases illegally.<sup>31</sup> Indeed, by 1990, the number of unauthorized immigrants grew to an estimated 3.5 million.<sup>31</sup> In response, Sen. Alan Simpson (R-Wyo.) proclaimed: “Uncontrolled immigration is one of the greatest threats to the future of this country.” Yet, as Payan (2007) asserts, the perception of the threat had less to do with competition for jobs than with other concerns.<sup>32</sup> In particular, many U.S. citizens grew convinced that unauthorized immigrants were flocking to the United States to take advantage of the country’s generous social welfare benefits. Moreover, the prospect of a major economic agreement between Canada, Mexico and the United States — the North American Free Trade Agreement (NAFTA) — heightened fears about a “NAFTA Train” of unauthorized immigration and organized crime moving across the U.S.-Mexican border.

In response to these concerns, U.S. authorities began an aggressive effort to stem the flow of unauthorized migration and illegal drugs into the country by developing a strategy of concentrated border enforcement. This strategy is credited to El Paso’s then-Border Patrol sector chief Silvestre Reyes, who redeployed hundreds of agents in 1993 to devise what he initially referred to as the “Blockade.” Reyes’s initiative, later relabeled as “Operation Hold the Line,” was arguably a continuation of a trend. That is, his strategy built upon earlier described trends that deployed new technology and physical barriers along the border, such as those that had been introduced in San Diego as recently as 1991. Yet, more so than previous efforts, Operation Hold the Line placed the concept of operational control at the center of enforcement efforts at the border. Moreover, while technology and fencing were an important part of the strategy, these would have proved ineffective without boots on the ground to detain unauthorized immigrants. Hence, the real key to Reyes’ strategy was the

<sup>31</sup> Office of Policy And Planning, ‘Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000’, in U.S. Immigration and Naturalization Service (ed.), (Washington, D.C., 2004).

<sup>32</sup> Tony Payan, *The Three U.S.-Mexico Border Wars: Drugs, Immigration, and Homeland Security* (Westport, Conn.: Praeger Security International, 2006). p. 67.

redeployment of personnel —some 400 agents posted in quarter mile increments along the border— to deter the unauthorized entry of immigrants into the United States.

Since the strategy of concentrated enforcement diverted immigration flows to less well-guarded portions of the border, the result was to dramatically drive down attempted crossings in targeted urban areas. Although net levels of unauthorized immigration remained unaffected, the ability to achieve isolated zones of operational control gained substantial support from locals and captured the attention of national politicians eager for policy solutions to a seemingly intractable problem. During the Clinton administration (1992-2000), officials were under intense pressure to do something in part because of criticism from conservatives. As Andreas notes, the 1994 re-election campaign of Republican governor Pete Wilson in California broadcast video taped images of immigrants teeming at the border, overwhelming immigration authorities, and charging en masse into the United States.<sup>33</sup> These images fueled the fears of many ordinary citizens about the rising tide of immigration and the failure to secure U.S. borders.

In an effort to address such concerns, in 1994 the Clinton administration appointed San Diego-based U.S. Attorney Alan Bersin as the lead coordinator or “czar” for Southwest border enforcement efforts. Bersin oversaw the implementation of Reyes’ strategy in San Diego under the title “Operation Gatekeeper,” while other corridors along the border did the same. As Hold the Line and Gatekeeper tended to divert flows of immigrants to other sectors of the border, the strategy was later deployed in 1998 in Brownsville, Texas as “Operation Rio Grande” and in Nogales, Arizona in 1999 as “Operation Safeguard.” Combined these operations produced a dramatic increase in force deployments, fencing, and technology over the course of the 1990s. From 1990 to 2000, the number of Border Patrol agents more than doubled to reach over 9,000 agents, and steel fencing and high tech surveillance systems were deployed throughout the Southwest border region.

### **The 9/11 Era**

The dramatic increases in border enforcement of the 1990s were followed by an unprecedented and unforeseen crisis that further fueled U.S. concerns about national security along the 2,000 mile perimeter. The September 11, 2001 terrorist attacks had an immediate and significant impact on enforcement efforts along the U.S.-Mexican border. On the day of the attacks, the U.S.-Mexican border was temporarily placed on a strict high-security alert that increased wait times for northbound border crossers from previous averages of thirty minutes to approximately four hours. The border was never actually “closed” but, as inspectors scrutinized incoming vehicles and passengers, the lines of northbound traffic at the border stretched four and five hours long, bringing cross-border economic activity to a virtual standstill in major twin-cities like Laredo-Nuevo Laredo, El Paso-Ciudad Juárez, and San Diego-Tijuana.

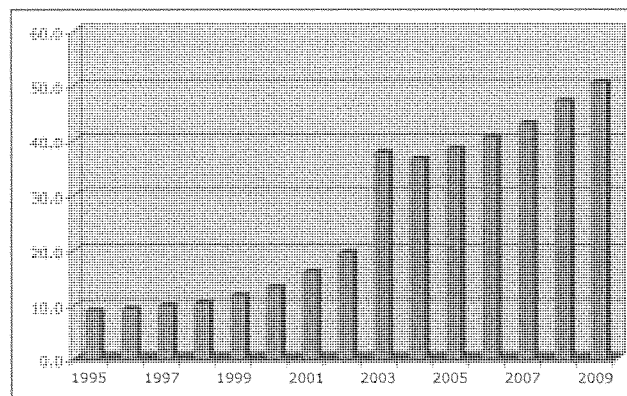
Although there was no evidence that any of the terrorists had entered the country through the U.S.-Mexico border, public anxiety about was very high and created a political rationale for continued investment in border enforcement measures into the 2000s. This response reflected the genuine sense of confusion and alarm that followed the terrorist attacks; it was difficult to know from what directions the United States might be attacked. For example, the

<sup>33</sup> Peter Andreas, *Border Games: Policing the U.S.-Mexico Divide* (Ithaca, NY: Cornell University Press, 2000).

deployment of biological weapons, albeit unrelated to the assault on the Twin Towers, suggested that Al Qaeda might have planned for a multi-pronged attack across a wide range of targets. In this context, a state of heightened alert border continued in the weeks, months, and years that followed, deterring legitimate economic activity while driving smugglers and undocumented immigrants to develop more sophisticated means of crossing the border.

The attacks also brought major bureaucratic challenges. In the wake of the attacks, the Border Patrol, for example, suffered a major drain on its available manpower because numerous agents were transferred to the Federal Air Marshals Program, leaving the organization below pre-9/11 staffing levels. This created major challenges because of the difficulty of recruiting, screening and training responsible and qualified individuals for these positions; it takes a full year to train and deploy new agents.<sup>34</sup> More importantly, citing concerns about insufficient interagency coordination in the lead up to the attacks, Congress passed legislation in November 2002 that completely reorganized the structure of federal agencies responsible for border law enforcement and domestic security by creating a new cabinet-level agency, the Department of Homeland Security. This constituted the largest bureaucratic reorganization in the federal government since the creation of the Department of Defense.

**Figure 3: Federal Budgets for Homeland Security Spending (Billions of dollars), 1995-2009**



Source: Data for FY1995-2003 are based on OMB estimates for expenditures, since the agency did not previously categorize expenditures for "homeland security" as reported in George W. Bush, *Securing the Homeland, Strengthening the Nation*. Washington, D.C.: Office of Homeland Security, 2002. Data for 2003-2008 adapted from U.S. Department of Homeland Security, *Budget in Brief* publications, 2004-2009 ([www.dhs.gov](http://www.dhs.gov)). Note: Total budget authority in billions of dollars, not adjusted for inflation. Data for FY2009 includes only requested budget.

<sup>34</sup> Some changes have been less visible but sought to better coordinate functions across agencies, such as the introduction of an FBI fingerprinting database into INS operations. A similar project currently under development will eventually provide access to Mexican fingerprints databases, enabling U.S. border agents to identify criminals seeking to evade the law in Mexico.

The creation of this new agency was accompanied by massive investments in border enforcement. Annual budget requests for border security grew consistently, with several special appropriations above and beyond regular allocations for the Department of Homeland Security. In the immediate aftermath of 9/11, Congress appropriated a \$40 billion Emergency Response Fund to increase the number of air marshals, stock up on vaccinations, improve bio-terrorism responsiveness, strengthen the Coast Guard, deploy National Guard forces to U.S. airports, and fund criminal investigations. In addition, the Bush administration (2001-2009) requested \$37.7 billion in FY2003 for homeland security measures (up from \$19.5 billion the previous year), with roughly 11 billion (28%) reserved specifically for border security. Thereafter, the budget for the newly created Department of Homeland Security grew from \$36.5 billion in 2003 to \$50.5 billion in 2009, with an average increase of 6.7% annually.<sup>35</sup> While most funds for homeland security are directed to purposes that can be easily related to terrorism, many expenditures were really more aptly described as enhancing the capabilities of domestic law enforcement to manage decidedly local law enforcement problems.<sup>36</sup>

Amid these spending increases, there was continued growth in the number of personnel assigned to border enforcement. Notably, after dramatic increases in the 1990s, the Border Patrol again more than doubled in size to 20,000 agents by the end of the 2000s. By 2010, there were also more than 3,000 Immigrations and Customs Enforcement (ICE) agents, more than a thousand recently deployed National Guard troops, and a significant surge in the number of Alcohol, Tobacco, and Firearms (ATF) personnel.

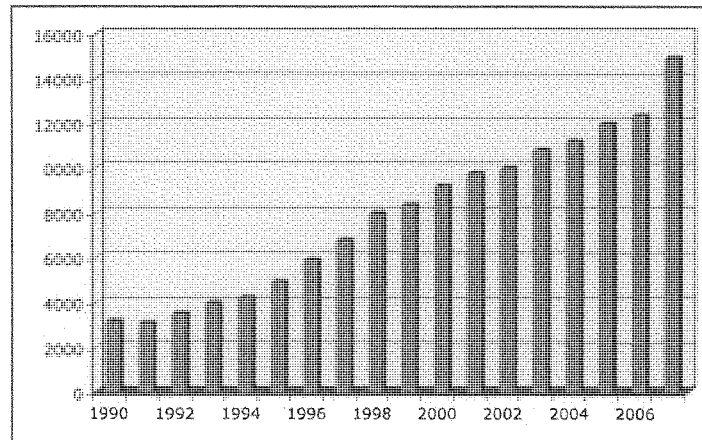
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<sup>35</sup> Total annual budget increases were as follows: 5.1% in 2005, 5.1% in 2006, 6.6% in 2007, 9.3% in 2008, and 7.4% in 2009. Data up to 2003 compiled from Department of Homeland Security, *Security the Homeland, Strengthening the Nation*, 2003. Data from 2004-2009 compiled from Department of Homeland Security "Budget in Brief" publications. Documents accessed at [www.dhs.gov](http://www.dhs.gov) on January 10, 2008.

<sup>36</sup> One DHS-funded acquisition along the border was the purchase of a mobile tower for the San Diego Police Department to aid with the monitoring of crowds and detection of dangerous suspects. While this equipment could be deployed in mass disaster situations, at best, such equipment has tended to be used primarily for monitoring illegal beer drinking and breaking up bar room brawls.



Figure 4: Total Number of Border Patrol Personnel, 1990-2007



Data adapted from 1990-2007 from José Z. García, "Security Regimes on the Border," Table 12.1 Security Personnel on the United States' Southwestern Border, p. 306; Leslie Berestein, "Tightened Border in San Diego Shifts Strain to Areas East," San Diego Union Tribune. From special report titled "Operation Gatekeeper: 10 Years Later." Originally published August 1, 2004; and Department of Homeland Security, Budget in Brief, 2006-09.

The dramatic expansion of border security in the post-9/11 context was accompanied by new fencing and greater physical control of key areas. Thanks to special appropriations for additional border fencing along the Southwest border, DHS more than doubled the amount of primary fencing from 154.7 miles in 2007 to nearly 370 miles in 2008.<sup>37</sup> As Rosenblum notes, in addition to this fencing, the Border Patrol also asserts that it has "operational control" of more than half of the U.S.-Mexico border, in so far as it has the capability to effectively deter or interrupt illegal activity in these areas.<sup>38</sup>

#### Measuring the Effects of U.S. Border Security Efforts

The 20<sup>th</sup> century marked a significant shift in U.S. immigration controls, and led to the gradual development a new paradigm in border enforcement that marked a sharp departure from the past. Whereas 19<sup>th</sup> century border management reflected the relatively "open border" paradigm prevalent in many borderlands in the modern era, by the late 20<sup>th</sup> century the United States adopted stringent border controls and practices that harked back to the Cold War, if not the days of Hadrian's Wall and Great Wall of China centuries earlier.

Heightened border security measures have had numerous consequences, from altering the physical landscape of fragile ecological systems to disrupting economies and communities

<sup>37</sup> Department of Homeland Security, *Budget in Brief*, 2009. The cost of current fencing construction is likely to be quite high, with significant cost overruns. During the 1990s, the construction of 14 miles of primary fencing along the San Diego sector of the border cost about \$1.7 million per mile, roughly double what was predicted.

<sup>38</sup> Rosenblum, 'Border Security: Immigration Enforcement between Ports of Entry'.

along the border. Today, daily life for most of the 14 million people in the border region is defined by a sharp divide that was once an imaginary dotted line on a map. That line has increasingly taken the form of steel and concrete barriers, and starkly reinforces ethnic, social, cultural, and economic divisions across and on either side of the border. In a hyper-fortified border regime, those of us with privileged educational, social, legal, and financial standing have the luxury of easily crossing those divides. Wealthy Mexicans and U.S. citizens with passports, cars, special “laser” visas and “trusted traveler” permits regularly zip across the border for business, pleasure, shopping, hospital visits, and various forms of tourism. The least fortunate border residents live mainly on the Mexican side and have relatively few options: work in the maquiladoras, sell trinkets on the street, traffic drugs, or risk their lives crossing the line. Enumerating the effects of the last few decades of intensified border enforcement, however, requires a focus on the more immediate and tangible effects, both intended and unintended.

Figure 5: Evaluating the Effects of U.S. Security Measures Along the Border

Security	Positive Effects	Negative Effects
	1. Operational Capacity	2. Increased Threats and Hazards
Security	<ul style="list-style-type: none"> <li>• Have seen the economically depressed, gradually driven decline in Mexican and cross-border migration in recent years, we have seen more effective deterrence, detection, detention, and deportation of unauthorized immigrants &amp; criminals in border areas.</li> <li>• Safer conditions—street lighting, crime-detection systems, emergency backups for crime-watching in border zones.</li> <li>• Safer conditions for border communities, businesses, and travelers.</li> </ul>	<ul style="list-style-type: none"> <li>• More sophisticated organized crime groups and greater threats for immigrants, residents, and governments against welfare in border areas.</li> <li>• More dangerous conditions and higher casualty rates for migrants crossing in and between ports of entry.</li> </ul>
	3. Improved Quality of Life	4. Negative Externalities
Social and Economic	<ul style="list-style-type: none"> <li>• Less property damage for businesses, ranches, and residents located adjacent to the border.</li> <li>• Greater existence of parks and recreational areas located near the border.</li> <li>• Less litter and habitat damage from unauthorized border crossings in certain sensitive ecological areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Greater economic operational costs of border enforcement.</li> <li>• Longer delays and lost economic opportunities for commercial, vehicular, and pedestrian border crossings.</li> <li>• Loss of social, pet, and health hazards in cross-border communities due to lengthy delays at ports of entry.</li> <li>• Border security measures have caused sensitive ecological areas, and destruction of trees and habitat damage from unauthorized border crossings to other areas.</li> </ul>

There are definitely measureable benefits from recent enforcement and security measures along the border. Increased operational control and capacity have improved the ability of

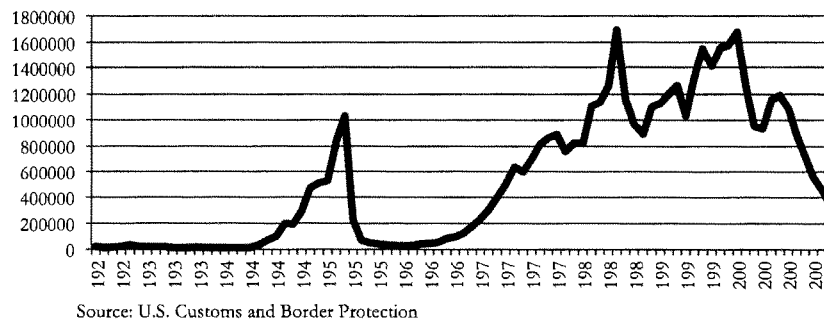
border security agencies to deter, detect, detain, and deport unauthorized immigrants, as well as other criminal actors, along the border. However, these increased enforcement measures have also increased the demand and profits for professional smugglers and traffickers, and increased the threats and risks faced by border security personnel and migrants alike. At the same time, the benefits of increased border security seem to be matched or outweighed by the significant accompanying economic, societal, and environmental costs. A sample of the benefits and costs of increased border enforcement measures is outlined in the matrix in Figure 5, and these issues are discussed below in greater detail.

### 1. Operational Control and Greater Security in Key Border Zones

Perhaps the strongest argument for concentrated border enforcement is the fact that the massive deployment of manpower, technology, and fencing brings isolated effects to the immediately surrounding areas, establishing what authorities have sometimes referred to as “operational control” in formerly lawless areas. The benefits of operational control include increased public safety in these areas, including a reduction of the risks that migrants themselves face.

First and foremost, the central question regarding the current border security regime is whether it has achieved its fundamental objectives. That is, has the massive investment in manpower, technology, and fencing effectively enhanced the capacity to deter, detect, detain, and deport unauthorized immigration? Certainly, the introduction of concentrated border enforcement in the United States has contributed to a change in unauthorized migration patterns. Since the 1990s, migrants crossing illegally into the United States have shifted away from heavily patrolled and fortified areas in search of less protected routes. However, this has not necessarily stopped or reduced the inflow of unauthorized immigrants. The primary factors driving and inhibiting immigration have to do with economic factors, while secondary factors like border enforcement and social ties tend to have effects that reshape immigration flows in various ways.

Figure 6: Nationwide Illegal Alien Apprehensions Fiscal Years, 1925 - 2011



A wealth of data collected over the last two decades illustrates these points, and strongly suggests that immigrants are not deterred by greater enforcement or increased costs. Indeed,

amid the massive buildup of enforcement at the border in the late 1990s and into the mid-2000s, the rate of unauthorized Mexican migration into the United States—as measured by proxy through the number of apprehensions along the Southwest Border—increased dramatically. By the late 2000s, however, migration ebbed significantly due to the global economic downturn. Demographers have also cited shifting demographic patterns in Mexico, most importantly a declining birth rate and a gradually shrinking younger population, as part of the explanation for this recent decline in outbound migration flows from Mexico.

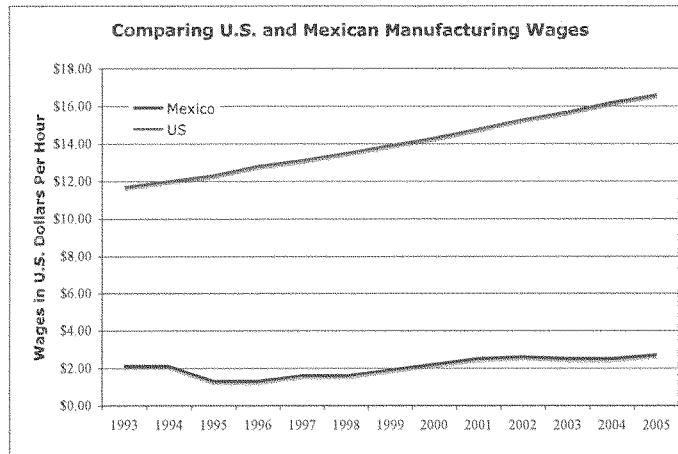
Why does the dramatic increase in dangers, obstacles, and apprehensions not provide more of a deterrent? For one thing, the success rate remains very high for those seeking unauthorized entry into the United States, despite border enforcement efforts. Meanwhile, for many migrants another path to unauthorized entry or residence in the United States is made possible by the ready availability of false documentation (fake drivers' licenses, social security cards, and the like) that can be used to secure employment and a semblance of citizenship.<sup>39</sup> As many as one-third of all unauthorized residents living in the United States are estimated to have fallen into unauthorized status by overstaying their visas after entering the country legally. Still other migrants are willing to go to greater extremes, risking arduous crossings in less effectively patrolled mountainous and desert regions, and/or pay exorbitant fees to professional smugglers.

The root motivator of these yearning masses of unauthorized immigrants is economic. While rare instances of political instability during the 20<sup>th</sup> century have caused some migration from Mexico across the border (as was the case during the Mexican Revolution of the 1910s), the primary “push” factor has been economic instability and lack of employment opportunities, problems that became more severe starting in the turbulent 1970s and 1980s. As tough times pushed Mexicans to migrate in search of jobs (and with average U.S.-Mexican wage differentials of as much as 10-to-1), the strong performance of the U.S. economy “pulled” Mexican workers into the United States in search of better employment and earnings.

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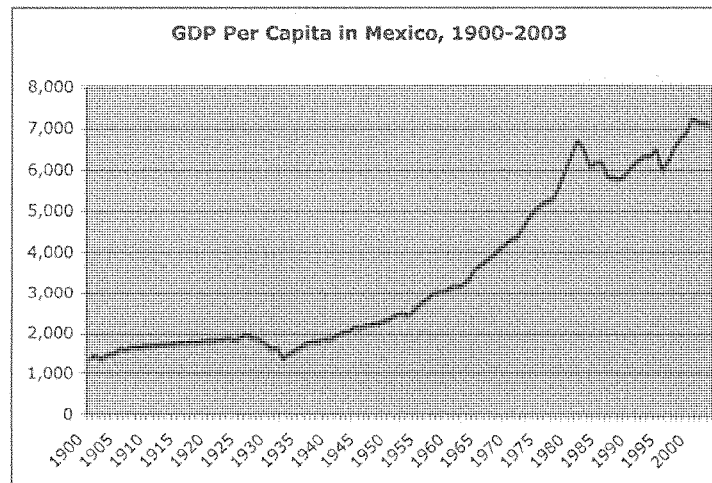
<sup>39</sup> Most U.S. citizens rely primarily on official identification issued by state governments—and because civil libertarians and individual privacy rights groups strongly oppose the creation of a national identity card—since there is no mandatory system of national identification within the United States.

Figure 7: Comparing U.S. and Mexican Manufacturing Wages



Source: Mexico Watch. <http://www.latinintel.com>.

Figure 8: GDP Per Capita in Mexico, 1900-2003



Source: Mexico Watch. <http://www.latinintel.com>.

Many U.S. citizens may wrongly assume that higher levels of poverty and lower levels of development in Mexico have maintained a steady stream of humanity across the border. This is not the case. Migration patterns have fluctuated along with periods of economic turmoil in

Mexico. While there were a number of significant economic crises in Mexico during first half of the 20<sup>th</sup> century, economic crises grew more frequent and more severe beginning in the 1970s. Mexican households destabilized by unemployment, inflation, and currency devaluations turned to migration as a means to alleviate these conditions. Opportunities to do so were, of course, conditioned by the economic situation in the United States.<sup>40</sup> This is why the two economic recessions that began in the United States —after 9/11 and after 2008—are probably far more important than tougher border controls for explaining the sharp decline in apprehensions noted earlier.

Meanwhile, the threat of terrorism in the post-9/11 presented a grave potential threat to national security, and one that deserves careful consideration in this discussion. Yet, for all the fear and alarm that followed, none of the 9/11 terrorists used the Mexican or Canadian borders as a point of entry to the United States. Also, no successful terrorist plots involving the land-based entry to the United States have occurred to date. Indeed, the only publicly reported attempt by a terrorist to enter the United States by land occurred in 1999 —the case of would-be “millennium” bomber Ahmed Ressam— and was foiled by a perceptive U.S. border patrol agent who became suspicious of Ressam’s nervous behavior and detained the would-be terrorist.<sup>41</sup> While DHS has reported the detention of hundreds of suspects wanted for “terrorism or national security concerns,” none of these are known to have occurred at land border ports of entry. Hence, post-9/11 claims that the border is the most likely gateway for terrorists to enter the United States have not borne out.<sup>42</sup>

95% of the more than 9,000 border patrol agents in 2001 were concentrated in the agency’s southern sectors. To a well-financed terrorist with other options, that fact must have made the U.S.-Mexican border seem relatively well guarded, at least in comparison to other means of entry to the United States.<sup>43</sup> Indeed, the 9/11 terrorists exploited weaknesses elsewhere in U.S. security, notably the lack of adequate background checks for visitors and a failure of U.S. agencies to pool intelligence. Advocates of elevated border security measures therefore insist that, as these other security gaps are filled, the border must not be allowed to become the “weakest link” in the U.S. security chain. However, if pre-9/11 security checks were already sufficient to deter terrorist entry through the border, this raises important questions

<sup>40</sup> Wayne A. Cornelius, *Mexican Migration and the U.S. Economic Crisis: A Transnational Perspective* (Ccis Anthologies; La Jolla, CA: Center for Comparative Immigration Studies, 2010) xvii, 269 p.

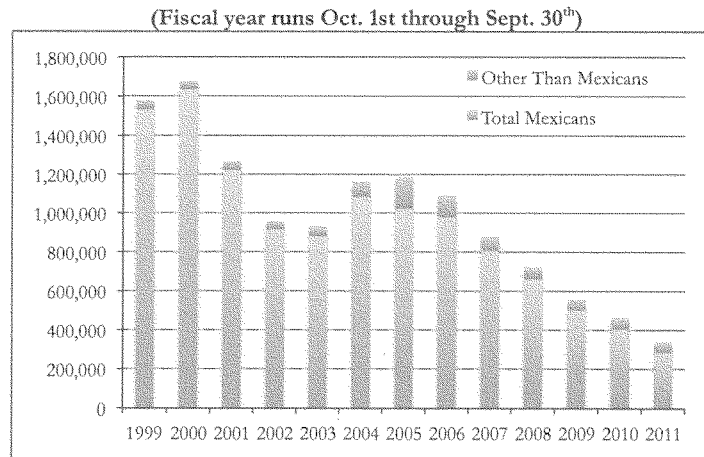
<sup>41</sup> Ressam attempted to enter the United States via Canada with a false French passport, but his plot was foiled on December 14, 1999 by a regular inspection by a U.S. customs agent who detained him. U.S. authorities had been previously alerted to Ressam’s disappearance during a two-year Canadian investigation, and was attempting to smuggle nitroglycerin and timing devices to bomb LAX. Thanks to assistance from Canadian authorities, Ressam’s arrest led to his eventual conviction, as well as the arrests of his co-conspirators and fellow Algerians, Mokhtar Haouari, Samir Ait Mohamed, and Ahcene Zemiri. Josh Meyer, “Terrorist Implicates 3 Others in Lax Bomb Plot”, *Los Angeles Times*, July 6, 2001 2001.

<sup>42</sup> One former border patrol chief proclaimed that “the next attack will come from somebody who will cross the border illegally.” Arrillaga, Pauline, “AP Investigation: ‘Catch and Release’ Policy Frees Illegal Immigrants to Move About U.S.,” *Associated Press*.

<sup>43</sup> According to Forest, “The 4,500-mile border between the United States and Canada was wide open, virtually unguarded... the 9,000-plus strong U.S. Border Patrol had only 334 agents along the Canadian border, which is twice as long as the U.S.-Mexico border.” “Protecting America’s Borders and Points of Entry: An Introduction,” in James J. F. Forest, *Homeland Security: Protecting America’s Targets, Volume 1: Borders and Ports of Entry*, p. 1.

about the “value added” of the substantial post-9/11 investments that have been made to further strengthen border security.

**Figure 9: Illegal Alien Apprehensions From Mexico By Fiscal Year 1999-2011**



Source: U.S. Customs and Border Protection

One thing is clear. The bulk of U.S. border security measures do not actually involve direct confrontations with terrorists. As noted above, there have been only a handful of cases referred by the Department for Homeland Security for prosecution by the Department of Justice. The average border patrol agent—including the many new recruits who rushed to the agency in the aftermath of 9/11 with visions of helping to combat Al Qaeda—will never see a terrorist, let alone help to detain one. Instead of taking on terrorists, DHS agents spend most of their day sorting through the haystack of petty drug dealers and would-be gardeners.

Still, U.S. cities located along the border have experienced relatively lower crime rates, both year-to-year and compared to the average for the top 300 cities in recent years. Indeed, crime rates in all four categories of serious violent crime tracked by the FBI's Uniform Crime Report—homicide, assault robbery, rape—actually decrease with greater proximity to the border. Cities that are closer to Mexico are safer, while those that are not are two to three times less safe (depending on the category of crime), as noted in Table 1.

**Table 1: Average Crime Rates for Major U.S. Cities, 2007-09**

CATEGORY	MURDER RATE	RAPE RATE	ROBBERY RATE	ASSAULT RATE
Top 300 Largest U.S. Cities	13	44	386	531
Subset Within 200km of the Border	8	36	235	365
Subset Within 100km of the Border	4	27	128	262

Source: FBI Uniform Crime Report. Note: Average crime rates from 2007-09 in each category are calculated per 100,000 inhabitants and rounded to the nearest whole. Data gathered by Marisol Martínez, Sara Nettleton, and Jamie

Some of the explanation for higher levels of public safety in border communities may be linked to the proximity and generally increased presence of law enforcement in the border region. This explanation has not been definitively tested, but what can clearly be said is that proximity to the border is not a liability for communities. This is something that should be taken into consideration as lawmakers contemplate the security situation along the U.S. southwest.

## **2. Greater Threats and Hazards Attributable to Increased Border Enforcement**

Perhaps the most significant and obvious unintended consequence of tougher border enforcement is the increasing sophistication and competition among Mexican organized crime groups. As is the case with immigration, it is clear that the additional scrutiny along the border and at U.S. ports of entry along the border makes drug trafficking more costly and difficult. The added costs are passed on to consumers, who must pay a higher price for drugs than they would if they were available legally for purchase in the United States. This profitability is what lures many to the drug trade.

Meanwhile, the increased difficulties involved in smuggling drugs across the border necessitates greater innovation and sophistication on the part of the smuggler. Individuals and minor criminal organizations face enormous risks if they should try to smuggle illicit drugs across the border. While many small-time criminals continue to do so (and many are caught), the major profits are found in wholesale distribution networks that must have vastly greater levels of sophistication. These are the so-called “cartels,” which in fact represent a vast, loosely affiliated, and complex network of growers and producers (marijuana, opium, and synthetics); pilots, drivers, and logistics experts; look-outs (*balcones*), enforcers, and professional hit men; accountants and financial experts; and top-level cartel executives. As Marcelo Bergman argues, the more distant actors within this network are from enforcement efforts at the border, the more diffuse, more decentralized, and less profitable their participation in the industry.<sup>44</sup> In short, the general consequence of greater border enforcement is more sophisticated criminal networks.

There are also more specific consequences. As their supply-chains backed up and drug stockpiles built up in the aftermath of 9/11, drug traffickers resorted to more desperate and innovative tactics to move product across the border. Initially, such tactics included filling the tires of SUVs with silicon in order to charge northbound into the United States, against traffic and over the tire strippers used in southbound lanes. Over time, such desperate measures gave way to alternative measures to move product into the United States, including greater use of sophisticated underground tunnels and maritime vessels (including submersibles).<sup>45</sup> Another specific, unintended consequence has been the development of a domestic market for drug consumption in Mexico, leading to greater problems of drug abuse

<sup>44</sup> Presentation by Marcelo Bergman to the Woodrow Wilson Center, April 2010.

<sup>45</sup> Kraul, Chris. “Drug Traffickers Use Submersibles to Ferry Narcotics,” *Los Angeles Times*, November 6, 2007.



in Mexican communities along the border, and possibly greater competition among organized crime groups to gain control of the domestic market.<sup>46</sup>

The growth of the organized crime threat has also put more law enforcement officers in harms way, due to the significant increase in the number of clashes between U.S. Border Patrol personnel and individuals entering the border region illegally. Unauthorized border crossers resort to throwing rocks and even shooting at Border Patrol agents; such confrontations have also resulted in an increase in the number of unauthorized crossers killed or wounded by Border Patrol agents. Finally, the arduous journey and high fees charged by migrant smugglers, or coyotes, make many migrants reluctant to return home as was customary in the past. The result has been a transition from seasonal, circular migration to more permanent settlement by migrants and their families in the United States. In other words, heightened border security has had the paradoxical effect of increasing the number of unauthorized immigrants and the lengths that they choose to stay in the United States.

Another deeply disconcerting problem along the border has been the compromised integrity of U.S. law enforcement, due to agency growing pains and corruption by organized crime. Increased recruitment efforts have brought in greater numbers of inexperienced agents, if not also some under-qualified personnel. Moreover, tighter scrutiny has provided criminal organizations with greater incentives to infiltrate and seek to corrupt U.S. law enforcement.<sup>47</sup> In 2004, the office of internal affairs for the U.S. Customs and Immigration Service compiled 2,771 complaints against the agency's employees, including more than 550 involved criminal allegations and more than 100 involved allegations of bribery.<sup>48</sup> From October 2003 to April 2008, there were numerous cases of alleged corruption identified along the border: 125 in California, 45 in Arizona, 14 in New Mexico, and 157 in Texas.<sup>49</sup> Conducting investigations into law enforcement corruption is a sensitive and often lengthy process, since ample evidence is needed in order to compile a successful case for prosecution. The emergence of hundreds of cases of alleged border patrol corruption over the last few years, suggests that the overall problem of official corruption among U.S. border security and law enforcement personnel may be far greater than the number of cases identified thus far.

Meanwhile, U.S. border enforcement efforts have also contributed to higher death tolls for migrants who are pushed to greater extremes –crossing the border in the deserts and mountains—in their effort to find jobs on the U.S. side of the border. Tougher border enforcement was intended to raise the stakes and create a deterrent for migrants crossing in major urban corridors along the border. However, the unintended result has been to redirect migrants to more dangerous routes, and has led to the proliferation of lucrative and sophisticated people smuggling organizations. In the early 1990s, the number of immigrants who died at the border en route to the United States tended to remain in the low double digits. With heightened border security measures, the number of migrants dying from

<sup>46</sup> Luis Astorga disputes the notion that domestic consumption in Mexico has significantly affected competition among Mexican organized crime groups.

<sup>47</sup> Ralph Vartabedian, Richard A. Serrano, and Richard Marosi, "The Long Crooked Line; Rise in Bribery Tests Integrity of U.S. Border," *Los Angeles Times*, October 23, 2006.

<sup>48</sup> Arrillaga, Pauline, "Feds Struggle with Border Patrol Corruption," *Associated Press*, September 22, 2006.

<sup>49</sup> Archibald, Randal C. and Andrew Becker, "Border Agents, Lured by the Other Side," *New York Times*, May 27, 2008.

dehydration and exposure in desert and mountain areas now typically amounts to well above 400 deaths per year. In an interview with the author, former U.S. Border Czar Alan Bersin acknowledged the program's unintended consequences for migrants.

Gatekeeper, as a major policy shift, had certain successes and certain failures, together with some consequences that were anticipated and some that were not. Here in San Diego [...] moving people further east in the first phase into the mountains of San Diego and then into the deserts of the Imperial Valley and the Sonoran desert in Arizona with the consequences of people being abandoned... I bare responsibility for that portion that took place during my watch... [however] the migration pattern of the twenty-first century and the twentieth century contributed to a highly lucrative criminal enterprise. Smugglers who took people into the mountains and abandon[ed] them. A Mexican and U.S. presence in those areas would have cut down on much of the tragic loss.

To be sure, the increased use of “professional” smugglers (“*coyotes*”) that results from intensified border security measures presents another serious hazard for the safety of migrants.<sup>50</sup> Such individuals charge exorbitant rates (often in excess of \$2,000), which are typically financed by a migrant’s friends or relatives already residing in the United States. Smugglers are uniquely positioned to take advantage of their clients. One example is the case of Raul Antonio Espinoza Rojasin, who was arrested by U.S. authorities in 2001 in connection with a large scale smuggling ring along the Texas-Mexican border. According to the Los Angeles Times, Rojas was believed to be among the top twelve smugglers in Mexico, with networks stretching into Central and South America, Russia, and Asia. Rojas was “wanted in Mexico and the United States in connection with human trafficking as well as deaths of migrants who drowned in the Rio Grange.”<sup>51</sup>

### 3. Improved Quality of Life in Border Communities

In a number of respects, enforcement efforts have improved quality of life in ways that go beyond the reduction of crime rates in U.S. border communities noted above. Fewer unauthorized migrants traveling through populated areas along the border means less property damage for businesses, ranchers, and residents located adjacent to certain areas of the border. This also appears to translate to greater protection of parks and recreational areas located near the border, and less litter and habitat damage from unauthorized border crossings in certain sensitive ecological zones. Border patrol agency officials frequently point to these improvements as significant contributors to the improved quality of life that has resulted due to greater operational control in populated areas.

### 4. The Negative Economic and Societal Externalities of Border Enforcement

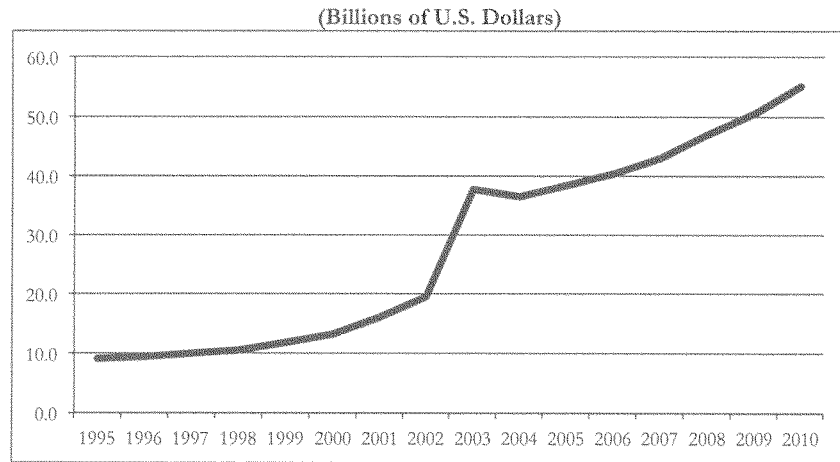
The enormous escalation of border security measures in recent years raises a critical question of whether they merit the costs. Unfortunately, there has been little serious cost-benefit analysis to gauge recent spending on border security. Even without a full cost-benefit analysis, it is clear that the direct fiscal costs of current border security policies are clearly enormous. Annual budget requests for border security have grown consistently in recent

<sup>50</sup> A study by the National Foreign Intelligence Board reports that illegal migration is “facilitated increasingly by alien-smuggling syndicates and corrupt government officials.” National Foreign Intelligence Board, *Growing Global Migration & Its Implications for the U.S.*, at 3 (Mar. 2001). Available at: [www.cia.gov/nic/graphics/migration.pdf](http://www.cia.gov/nic/graphics/migration.pdf)

<sup>51</sup> Staff Writer, *Immigrant Smuggling Suspect Held*, Los Angeles Times, Mar. 7, 2001, LEXIS, News Library.

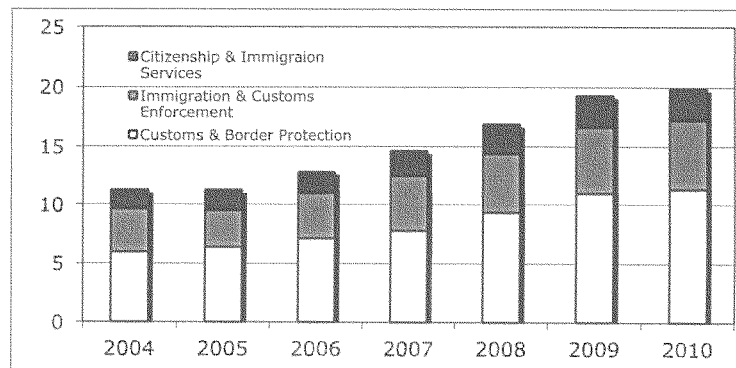
years, with several special appropriations above and beyond regular allocations for the Department of Homeland Security.

Figure 10: Congressional Allocations For Border Enforcement, 1995-2010



Source: Department of Homeland Security Budgets in Brief, 2003-2010. Data for FY1995-97 are based on OMB estimates for expenditures, since the agency did not previously categorize expenditures for "homeland security." George W. Bush, *Securing the Homeland, Strengthening the Nation*. Washington, D.C.: Office of Homeland Security, 2003.

Figure 11: Congressional Allocations For Homeland Security, 2004-2010



In the immediate aftermath of 9/11, Congress appropriated a \$40 billion Emergency Response Fund to increase the number of air marshals, stock up on vaccinations, improve bio-terrorism responsiveness, strengthen the Coast Guard, deploy National Guard forces to U.S. airports, and fund criminal investigations. In addition, the Bush administration requested \$37.7 billion in FY2003 for homeland security measures (up from \$19.5 billion the

previous year), with roughly 11 billion (28%) reserved specifically for border security. Since then, the budget for the newly created Department of Homeland Security has grown from \$36.5 billion in 2003 to \$50.5 billion in 2009, with an average increase of 6.7% annually.<sup>52</sup> While most funds for homeland security are directed to purposes that can be easily related to terrorism, many expenditures are really more aptly described as enhancing the capabilities of domestic law enforcement to manage decidedly local law enforcement problems.<sup>53</sup> In the context of the current economic downturn and massive federal outlays to the wars in Iraq and Afghanistan, it seems doubtful that current levels of appropriations for border security will be sustainable over the long term.

Tougher measures equate to long delays for pedestrian, vehicles, and commercial trucks, due to more intensive inspection procedures. Such measures have incalculable costs for border communities and for the larger U.S. and Mexican economies.<sup>54</sup> After 9/11, primary inspections grew even more rigorous, with customs and border patrol agents more frequently taking time to make additional inquiries, search personal belongings or the trunk of a vehicle, and verify documents for authenticity for all passengers. There is reason to believe that the effect of heightened border security has had a detrimental effect on legitimate cross-border activity, and that both drivers and pedestrians are using their discretion not to travel across the border because of added hassles and delays.<sup>55</sup>

For example, in recent years the growth or decline of pedestrian and passenger vehicle traffic has alternated as border crossers presumably adjusted their mode of crossing in order to mitigate delays (when vehicular traffic decreases, pedestrian traffic increases). More strikingly, one study by the San Diego Association of Governments (SANDAG) found that cross-border trade—to the tune of \$23.2 billion in the San Diego County sector in 2004—suffered significantly from increased border wait times. SANDAG reported that, with 99% of all trade between California and Mexico is carried by trucks, border delays resulted in a loss of \$2.71 billion for San Diego County, \$3.2 billion for the State of California, and \$3.74

<sup>52</sup> Total annual budget increases were as follows: 5.1% in 2005, 5.1% in 2006, 6.6% in 2007, 9.3% in 2008, and 7.4% in 2009. Data up to 2003 compiled from Department of Homeland Security, *Security the Homeland, Strengthening the Nation*, 2003. Data from 2004-2009 compiled from Department of Homeland Security “Budget in Brief” publications. Documents accessed at [www.dhs.gov](http://www.dhs.gov) on January 10, 2008.

<sup>53</sup> One recent DHS-funded acquisition along the border was the purchase of a mobile tower for the San Diego Police Department to aid with the monitoring of crowds and detection of dangerous suspects. While this equipment could be deployed in mass disaster situations, at best, such equipment will be used primarily for monitoring illegal beer drinking and breaking up bar room brawls. At worst, the high resolution cameras will be used for bikini monitoring by officers bored by the humdrum reality of the daily law enforcement routine.

<sup>54</sup> Many of the costs are difficult to measure. According to the Border Trade Alliance, “The current lack of comprehensive statistics regarding the scope and impact of wait-times at our land ports has made it difficult for policy-makers in Washington to determine the appropriate federal response. Recognizing the important need to confirm the impact of wait-times on trade and commerce, Senator Kay Bailey Hutchison (R-TX) and Congressman Ciro D. Rodriguez (D-TX) have introduced legislation (S.2425 and H.R. 4309) that requires the study of the economic impact and scope of the growing wait-times experienced at land border crossings in the United States.” Border Trade Alliance, “Benefits of NAFTA Threatened by Cross-Border Wait-times: Legislators push to study effects on Economy,” [www.bta.org](http://www.bta.org) (Accessed January 19, 2009).

<sup>55</sup> Haralambides, Hercules E. and Maria P. Londono-Kent, “Supply Chain Bottlenecks: Border Crossing Inefficiencies Between Mexico and the United States,” *International Journal of Transport Economics*, Vol. XXXI, No. 2, June 2004.

billion for the overall U.S. economy.<sup>56</sup> Since cross-border trade in San Diego accounts for just a fraction (about 12%) of overall trade between the United States and Mexico, it is very possible that losses are even more significant along the rest of the border. This may be especially true for Laredo, which handled more than \$167 billion in cross-border trade in 2007 (nearly half of all trade on the border).<sup>57</sup>

### **Improving Assessments of Border Security Effectiveness**

While there is ample evidence that border security measures in the southwest have had significant effects, there is unfortunately too little information available to measure their effectiveness. Almost all of the most commonly used metrics of border security effectiveness are proxy indicators. Analysts measure the number of unauthorized immigrants living in the United States based on surveys and approximations. Analysts measure the flow of illegal immigrants into the country by the number of arrests made by border patrol agents. Analysts measure the volume of drug, cash, or gun smuggling by the amount of contraband authorities are able to seize. Because we are trying to measure unknowns, we necessarily resort to extrapolation.

**Evaluating Outcomes:** To begin with, there is a critical need for data on the size and nature of the US unauthorized immigrant population and estimates of flows of unauthorized immigrants into the United States. Data on these phenomena need to be more regularly updated and disseminated to gain a clear picture of the overall effectiveness of immigration control measures, including those that go beyond the border. In particular, greater research and analysis is needed to approximate the proportion of visa overstays compared to unauthorized border crossers that comprise the U.S. immigrant population, as well as the proportion of Mexicans and Central Americans among the unauthorized immigrant population. In addition to government data on these measures, the United States government should work with the government of Mexico and Mexican research agencies to examine statistics on Mexican outbound migration and returnees (*repatriación*) to Mexico. If these data were collected in ways that made it easier to identify multiple returns, it would be more feasible to estimate the number of people leaving and returning to Mexico.

**Evaluating Capacity:** Authorities do have some measures that can be used to evaluate the capacity and performance of U.S. border control agencies, which sheds light on the effectiveness of current enforcement measures. For example, border officials have attempted to collect data on the likelihood of detention after detection, but the methodology for gathering these data vary from sector to sector. Developing a standardized methodology for the collection of these data would make it possible for officials to identify areas in need of improvement along different sectors of the border, and redeploy resources to those zones.

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<sup>56</sup> The same SANDAG study reported that the Mexican state of Baja California loses \$1.49 billion and the overall Mexican economy loses \$2.24 billion. San Diego Association of Governments, *Economic Impacts of Wait Times at the San Diego-Baja California Border*, Final Report, January 19, 2006.

<sup>57</sup> Laredo's total trade has grown continuously in recent years (\$115 billion in 2003, \$130 in 2004, \$140 billion in 2005, and \$157 in 2006), but could benefit even more so from a strong Mexican economy and expedited border crossings. Aguilar, Julian, "\$167B Strong, and Growing," *Laredo Morning Times*, February 25, 2008.

### Concluding Observations

It is not clear that more walls, technology, and manpower at the border have significantly diminished illicit cross-border flows. On the contrary, despite very costly investments in border interdiction, illicit flows of cross-border flows of people, drugs, guns, and cash are likely to continue even with significantly greater investments in border enforcement. It seems likely that there is greater room for improvement at by reducing migrants' incentives to leave their home communities or making it easier to verify eligibility for employment in the United States. Pursuing this course, perhaps by promoting economic opportunities in major migrant-sending communities in Mexico or placing greater scrutiny on U.S. employers, would require U.S. taxpayers and consumers to accept significant costs. As such, policy proposals in this vein have gained very little traction in the United States.

Meanwhile, the status quo at the U.S.-Mexican border is highly problematic. At the very worst, the U.S.-Mexican border has become a modern day Maginot Line, imposing in appearance but of little real value in thwarting cross-border flows of drugs and people. At best, U.S. authorities have succeeded only partially in securing the border against outside threats —primarily by raising the stakes for migrants and smugglers, and thereby discouraging terrorists— but at extraordinary cost. Ultimately, the real question is how “tough” border security has to be —not only as a deterrent, but also as a filter— and what other mechanisms can be used to enhance the effectiveness of border security. Given the enormous investments in post-9/11 border security measures, this is ultimately a question of whether tougher border security measures merit the numerous costs outlined above.

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WRITTEN STATEMENT OF  
THE AMERICAN CIVIL LIBERTIES UNION

For a Hearing on

**Border Security: Measuring the Progress and Addressing the Challenges**

**Submitted to the U.S. Senate Committee on Homeland Security and Governmental Affairs**

March 14, 2013

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## I. Introduction

The American Civil Liberties Union (ACLU) is a nationwide, non-partisan organization of more than a half-million members, countless additional activists and supporters, and 53 affiliates nationwide dedicated to preserving and defending the fundamental rights of individuals under the Constitution and laws of the United States. The ACLU's Washington Legislative Office (WLO) conducts legislative and administrative advocacy to advance the organization's goal to protect immigrants' rights, including supporting a roadmap to citizenship for aspiring Americans. The Immigrants' Rights Project (IRP) of the ACLU engages in a nationwide program of litigation, advocacy, and public education to enforce and protect the constitutional and civil rights of immigrants. The ACLU of New Mexico's Regional Center for Border Rights (RCBR) addresses civil and human rights violations arising from border-related immigration policies. RCBR works in conjunction with ACLU affiliates in California, Arizona, and Texas, as well as immigrants' rights advocates throughout the border region.

The ACLU submits this statement to the U.S. Senate Committee on Homeland Security and Governmental Affairs on the occasion of its hearing addressing Border Security: Measuring the Progress and Addressing the Challenges. Our statement aims to provide the Committee with an appraisal of the civil liberties implications of border security. The ACLU is particularly concerned with attempts to define border security that fail to take into account the fact that border security benchmarks in previous immigration reform proposals have been satisfactorily met. Any proposal for immigration reform should not be made contingent upon border security escalation, because:

- Deployment of additional border security along the U.S.-Mexico border would be wasteful and unnecessary, with apprehensions by Customs and Border Protection (CBP) personnel at their lowest level in 40 years and net migration from Mexico at zero; and
- Spending on the Southwest border has increased dramatically over the last decade with virtually no accountability measures, resulting in civilian deaths at the hands of CBP personnel and many other civil liberties abuses..
- Rapid expansion of border enforcement resources has come with very few corresponding accountability<sup>1</sup> and oversight resources and has, unfortunately, led to an increase in civil and human rights violations, traumatic family separations in border communities, and racial profiling and harassment of Native Americans/American Indians and Hispanics/Latinos—many of whom are U.S. citizens and have lived in the region for generations.

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<sup>1</sup> Steller, Tim. "Border Patrol faces little accountability," *Arizona Daily Star*, Dec. 9, 2012, available at [http://azstarnet.com/news/local/border/border-patrol-faces-little-accountability/article\\_7899cf6d-3f17-53bd-80a8-ad214b384221.html](http://azstarnet.com/news/local/border/border-patrol-faces-little-accountability/article_7899cf6d-3f17-53bd-80a8-ad214b384221.html).

At a time of sequestration, when the federal government is poised to cut spending by 8.2 percent, our country can no longer afford to throw money down the border drain – particularly when those expenditures are made in a way that violates the basic human rights and civil liberties of people living in communities along the border. Congress must not buy into the false notion of inadequate border security, nor heed siren calls for more border enforcement resources. Instead, border security resources should be guided by principles of fiscal responsibility, accountability and oversight, and attention to the true needs of border communities suffering from a wasteful, militarized enforcement regime. Experts, including from the Department of Homeland Security, agree that the border is more secure than ever.<sup>2</sup> Congress should proceed unimpeded by border security obstacles to the vital task of providing a roadmap to citizenship for aspiring Americans in a way that advances our Constitution’s principles and American values of family unity and due process.

**II. The Pathway to Citizenship Must Not Be Contingent on the False Metric of a “Completely Secure Border.” Instead, Immigration Reform Should End the Abusive Militarization of Border Communities.**

**a. The “Mini-Industrial Complex” of Border Spending**

Congress should not seek to define a “secure border” as an airtight 2,000-mile border, because this would ignore the fact that border security benchmarks of prior proposed or enacted legislation (in 2006, 2007, and 2010) have already been met or exceeded.<sup>3</sup> In the last decade, the United States has relied heavily on enforcement-only approaches to address migration, using deterrence-based border security strategies:

- The U.S. government has expanded the powers of federal authorities by creating “Constitution-Light” or “Constitution-Free” zones within 100 miles of borders – not only international borders with Canada and Mexico, but all U.S. coastlines. As a result, these are vast areas in which CBP personnel intrude on civil liberties in ways that would be unconstitutional in other parts of the country, affecting the two-thirds of the American population residing within 100 miles of these borders.
- Because of “zero-tolerance” initiatives like Operation Streamline,<sup>4</sup> the Department of Homeland Security (DHS) now refers more cases for federal prosecution than the Department of Justice’s (DOJ) law enforcement agencies combined, including the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), and

<sup>2</sup> Testimony of DHS Secretary Napolitano to the Senate Judiciary Committee (Feb. 13, 2013), available at <http://www.judiciary.senate.gov/pdf/2-13-13NapolitanoTestimony.pdf>.

<sup>3</sup> Chen, Greg and Kim, Su. “Border Security: Moving Beyond Past Benchmarks,” American Immigration Lawyers Association, (Jan. 30, 2013), available at: <http://www.aila.org/content/default.aspx?bc=2566743061>.

<sup>4</sup> See generally ACLU, “Operation Streamline Issue Brief,” (Feb. 25, 2013), available at <http://www.aclu.org/immigrants-rights/operation-streamline-issue-brief>

Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).<sup>5</sup> Federal prisons are already 39 percent over capacity, due in large part to indiscriminate prosecution of individuals for crossing the border without authorization, often to rejoin their families. Because of the heavy enforcement of those immigration statutes, the majority of those sentenced to federal prison last year were Hispanics and Latinos, who constitute only 16 percent of the population, but are now held in large numbers in private prisons.<sup>6</sup>

- Since 2003, the U.S. Border Patrol has doubled in size and now employs more than 21,400 agents, with about 85 percent of its force deployed at the U.S.-Mexico border.<sup>7</sup> So many Border Patrol agents now patrol the southern border that if they lined up equally from Brownsville to San Diego, they would stand in plain sight of one another (about 10 per mile). This number does not include the thousands of other DHS officials, including CBP Office of Field Operations officers and one-fourth of all Immigration and Customs Enforcement (ICE) personnel deployed at the same border. It also does not include 651 miles of fencing, 333 video surveillance systems, and 9 drones for air surveillance.

From a fiscal perspective, from FY2004 to FY2012, the budget for CBP increased by 94 percent to \$11.65 billion, a leap of \$5.65 billion; this following a 20 percent post-9/11 increase of \$1 billion.<sup>8</sup> By way of comparison, this jump in funding is more than quadruple the growth rate of NASA's budget and is almost ten times that of the National Institutes of Health. U.S. taxpayers now spend more on immigration enforcement agencies (\$18 billion) than on the FBI, DEA, ATF, U.S. Marshals, and Secret Service—*combined*.<sup>9</sup>

CBP's spending runs directly counter to data on recent and current migration trends and severely detracts from the true needs of border security. Over the last decade, apprehensions by the Border Patrol have declined more than 72 percent (2000-10). At a time when migrant apprehensions are lower than at any time since the 1970s, wasteful spending by CBP must be reined in.<sup>10</sup> In FY2012, Border Patrol apprehended on average 18 people per agent.<sup>11</sup> A weakening

<sup>5</sup> Meissner, Doris, Kerwin, Donald M., Chishti, Muzaffar and Bergeron, Claire. Immigration Enforcement in the United States: The Rise of a Formidable Machinery, Migration Policy Institute, January 2013. Available at: <http://www.migrationpolicy.org/pubs/enforcementpillars.pdf>

<sup>6</sup> U.S. Sentencing Commission, 2011 ANNUAL REPORT, Chapter 5, available at [http://www.ussc.gov/Data\\_and\\_Statistics/Annual\\_Reports\\_and\\_Sourcebooks/2011/2011\\_Annual\\_Report\\_Chap5.pdf](http://www.ussc.gov/Data_and_Statistics/Annual_Reports_and_Sourcebooks/2011/2011_Annual_Report_Chap5.pdf)

<sup>7</sup> Migration Policy Institute, Immigration Enforcement, *supra*.

<sup>8</sup> Michele Mittelstadt et al., "Through the Prism of National Security: Major Immigration Policy and Program Changes in the Decade since 9/11." (Migration Policy Institute, Aug. 2011), 3, available at [http://www.migrationpolicy.org/pubs/FS23\\_Post-9-11policy.pdf](http://www.migrationpolicy.org/pubs/FS23_Post-9-11policy.pdf)

<sup>9</sup> Migration Policy Institute, Immigration Enforcement, *supra*.

<sup>10</sup> Testimony of DHS Secretary Napolitano to the House Judiciary Committee (July 19, 2012); DHS Fact Sheet, "Apprehensions by the U.S. Border Patrol: 2005–2010." (July 2011), available at <http://www.dhs.gov/xlibrary/assets/statistics/publications/ois-apprehensions-fs-2005-2010.pdf>; see also Jeffrey Passel and D'Vera Cohn, "U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade." (Pew Hispanic Center, Sept. 1, 2010), available at <http://pewhispanic.org/reports/report.php?ReportID=126>

U.S. economy, strengthened enforcement, and a growing Mexican economy have led to a dramatic decrease in unauthorized migration from Mexico. In fact, net migration from Mexico is now zero or slightly negative (i.e., more people leaving than coming).<sup>12</sup>

The costs per apprehension vary per sector, but are at an all-time high. The Yuma, Arizona sector, for example, has seen a 95 percent decline in apprehensions since 2005 while the number of agents has tripled.<sup>13</sup> Each agent was responsible for interdicting just 8 immigrants in 2010, contributing to ballooning per capita costs: each migrant apprehension at the border now costs five times more, rising from \$1,400 in 2005 to over \$7,500 in 2011.<sup>14</sup> Indeed, despite Border Patrol's doubling in size since 2004, overtime costs have amounted to \$1.6 billion over the last six years.<sup>15</sup> Congress should heed House Appropriations Committee Chairman Hal Rogers' warning about the irrationality of border spending: "It is a sort of a mini industrial complex syndrome that has set in there. And we're going to have to guard against it every step of the way."<sup>16</sup>

#### **b. Lack of CBP Oversight: Racial Profiling and Excessive Use of Force**

Unprecedented investment in border enforcement without corresponding oversight mechanisms<sup>17</sup> has led to an increase in human and civil rights violations, traumatic family separations in border communities, and racial profiling and harassment of Native Americans, Latinos, and other people of color – many of them U.S. citizens and some who have lived in the region for generations. The bipartisan framework that was proposed by the "Gang of Eight" Senators in late January rightly recognizes a need for strengthened prohibitions against racial profiling and inappropriate use of force. In addition, more must be done to transform border enforcement by prioritizing investment in robust and independent external oversight that includes input from border communities.

Border communities are a vital component of the half-trillion dollars in trade between the U.S. and Mexico, and the devastating effects of militarization on them must be addressed in immigration reform. The U.S.-Canada border has experienced an increase in border enforcement resources as well, with northern border residents often complaining about Border Patrol agents conducting roving patrols near schools and churches and asking passengers for their documents on

<sup>11</sup> Chen and Kim, "Border Security," *supra*.

<sup>12</sup> Philip E. Wolgin and Ann Garcia, "What Changes in Mexico Mean for U.S. Immigration Policy." (Center for American Progress, Aug. 8, 2011), available at [http://www.americanprogress.org/issues/2011/08/mexico\\_immigration.html](http://www.americanprogress.org/issues/2011/08/mexico_immigration.html)

<sup>13</sup> Richard Marosi, "Plunge in border crossings leaves agents fighting boredom." *Los Angeles Times* (Apr. 21, 2011).

<sup>14</sup> Immigration Policy Center, *Second Annual DHS Progress Report*. (Apr. 2011), 26, available at [http://www.immigrationpolicy.org/sites/default/files/docs/2011\\_DHS\\_Report\\_041211.pdf](http://www.immigrationpolicy.org/sites/default/files/docs/2011_DHS_Report_041211.pdf)

<sup>15</sup> "Border Patrol overtime, staffing up; arrests down." Associated Press (Feb. 5, 2012).

<sup>16</sup> Ted Robbins, "U.S. Grows an Industrial Complex Along the Border." NPR (Sept. 12, 2012), available at <http://www.npr.org/2012/09/12/160758471/u-s-grows-an-industrial-complex-along-the-border>

<sup>17</sup> Tim Steller, "Border Patrol faces little accountability," *Arizona Daily Star* (Dec. 9, 2012), available at: [http://azstarnet.com/news/local/border/border-patrol-faces-little-accountability/article\\_7899cf6d-3f17-53bd-80a8-ad214b384221.html](http://azstarnet.com/news/local/border/border-patrol-faces-little-accountability/article_7899cf6d-3f17-53bd-80a8-ad214b384221.html)

trains and buses that are traveling far from border crossings. The ACLU of Washington State has brought a class action lawsuit to end the Border Patrol's practice of stopping vehicles and interrogating occupants without legal justification. One of the plaintiffs in the case is an African American corrections officer and part-time police officer who was pulled over for no expressed reason and interrogated about his immigration status while wearing his corrections uniform.<sup>18</sup> A local business owner said he's "never seen anything like this. Why don't they do it to the white people, to see if they're from Canada or something?"<sup>19</sup>

CBP also aids and abets state and local police racial profiling practices, ensnaring U.S. citizens. In February 2011, Tiburcio Briceno, a naturalized U.S. citizen, was stopped by a Michigan State Police officer for a traffic violation while driving in a registered company van. Rather than issue him a ticket, the officer interrogated Briceno about his immigration status, apparently based on Briceno's Mexican national origin and limited English. Dissatisfied with Briceno's valid Michigan chauffeur's license, the officer summoned CBP, impounded Briceno's car, and told him he would be deported. Briceno says he reiterated again and again that he was a U.S. citizen, and offered to show his social security card but the officer refused to look.

Briceno was released after CBP officers arrived and confirmed that he was telling the truth. "Becoming a U.S. citizen was a proud moment for me," Briceno has since reflected. "When I took the oath to this country, I felt that I was part of something bigger than myself; I felt that I was a part of a community and that I was finally equal to every other American. Although I still believe in the promise of equality, I know that I have to speak out to make sure it's a reality for me, my family and my community. No American should be made to feel like a criminal simply because of the color of their skin or language abilities."<sup>20</sup>

In addition to racial profiling at and beyond the border, incidents of excessive use of force are on the rise, with at least 19 people killed by CBP officials since January 2010,<sup>21</sup> including five

<sup>18</sup> Complaint available at [http://www.aclu-wa.org/sites/default/files/attachments/2012-04-26--Complaint\\_0.pdf](http://www.aclu-wa.org/sites/default/files/attachments/2012-04-26--Complaint_0.pdf)

<sup>19</sup> William Yardley, "In Far Northwest, a New Border Focus on Latinos," New York Times (May 29, 2012) (emphasis added), available at <http://www.nytimes.com/2012/05/29/us/hard-by-canada-border-fears-of-crackdown-on-latino-immigration.html?pagewanted=all>

<sup>20</sup> ACLU of Michigan, "ACLU Urges State Police to Investigate Racial Profiling Incident," (Mar. 21, 2012) (emphasis added), available at <http://www.aclumich.org/issues/racial-justice/2012-03/1685>

<sup>21</sup> Jorge A. Solis, 28, shot and killed, Douglas, AZ (Jan. 4, 2010); Victor Santillan de la Cruz, 36, shot and killed, Laredo, TX (March 31, 2010); Anastasio Hernandez Rojas, 32, tortured to death, San Diego, CA (May 28, 2010); Sergio Adrian H. Huereca, 15, shot and killed, El Paso, TX (June 7, 2010); Juan Mendez, 18, shot and killed, Eagle Pass, TX; Ramses Barron Torres, 17, shot and killed, Nogales, Mexico (Jan. 5, 2011); Roberto Pérez Pérez, beaten while in detention and died due to lack of proper medical care, San Diego, CA (Jan. 13, 2011); Alex Martinez, 30, shot and killed, Whatcom County, WA (Feb. 27, 2011); Carlos Lamadrid, 19, shot and killed, Douglas, AZ (March 21, 2011); Jose Alfredo Yañez Reyes, 40, shot and killed, Tijuana, Mexico (June 21, 2011); Gerardo Rico Lozana, 20, shot and killed near Corpus Christi, TX (Nov. 3, 2011); Byron Sosa Orellana, 28, shot and killed near Sells, AZ (Dec. 6, 2011); Alexander Martin, 24, died in car explosion that may have been caused by Border Patrol tasers (March 15, 2012); Charles Robinson, 75, shot and killed, Jackman, ME (June 23, 2012); Juan Pablo Perez Santillán, 30, shot and killed on the banks of the Rio Grande, near Matamoros, Mexico (July 7, 2012); Guillermo Arévalo Pedroza, 36, shot and killed, Nuevo Laredo, Mexico (Sept. 3, 2012); Valerie Tachiquin-Alvarado, 32, shot and killed, Chula Vista, CA

U.S. citizens and six individuals who were standing in Mexico when fatally shot. On April 20, 2012, PBS's *Need to Know*<sup>22</sup> program explored the trend of CBP's excessive use of force, with a focus on Anastasio Hernandez Rojas. New footage depicting a dozen CBP personnel surrounding and repeatedly applying a Taser and other force to Mr. Hernandez – who was shown to be handcuffed and prostrate on the ground contrary to the agency's incident reporting – shocked viewers. The San Diego coroner classified Mr. Hernandez's death as a homicide, noting in addition to a heart attack: "several loose teeth; bruising to his chest, stomach, hips, knees, back, lips, head and eyelids; five broken ribs; and a damaged spine." CBP's version of events described a "combative" person: force was needed to "subdue the individual and maintain officer safety." Spotlighting another CBP fatality, three weeks ago the *Arizona Republic* reported that "An autopsy report raises new questions about the death of a Mexican youth shot by at least one U.S. Border Patrol officer four months ago in Nogales. The Border Patrol has maintained that Jose Antonio Elena Rodriguez, 16, was throwing rocks over the border fence at agents on the U.S. side when an agent fired across the international border the night of Oct. 10. But entry and exit wounds suggest that all but one of as many as 11 bullets that struck the boy entered from behind, according to the report by two medical examiners working for the Sonora Attorney General's Office."<sup>23</sup>

After a Congressional letter signed by 16 Members was sent to DHS Secretary Janet Napolitano, DHS Acting Inspector General Charles Edwards, and Attorney General Eric Holder,<sup>24</sup> on July 12, 2012, the Associated Press reported that a federal grand jury was investigating the death of Anastasio Hernandez.<sup>25</sup> Border Patrol's use-of-force incidents have attracted international scrutiny with the government of Mexico,<sup>26</sup> the Inter-American Commission on Human Rights,<sup>27</sup> and the Office of the United Nations High Commissioner for Human Rights<sup>28</sup> weighing in.

While the federal government has the authority to control our nation's borders and to regulate immigration, CBP officials must do so in compliance with national and international legal

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(Sept. 28, 2012); José Antonio Elena Rodriguez, 16, shot and killed, Nogales, Sonora (Oct. 11, 2012); and Margarito Lopez Morelos, 19, shot and killed, Baboquivari Mountains, AZ (Dec. 2, 2012). This count does not include Border Patrol agent Nicholas J. Ivie, 30, who was fatally shot by friendly fire near Bisbee, AZ (Oct. 2, 2012).

<sup>22</sup> PBS *Need to Know* special, aired April 20, 2012 and entitled "Crossing the line at the border," available at: <http://www.pbs.org/wnet/need-to-know/security/video-first-look-crossing-the-line/13597/>

<sup>23</sup> Bob Ortega, "New theory on Border Patrol killing of boy," *Arizona Republic* (Feb. 7, 2013), available at <http://www.azcentral.com/news/articles/20130206border-patrol-killing-boy-new-theory.html>

<sup>24</sup> Congressional sign-on letter sent May 10, 2012 to Secretary Janet Napolitano available at: <http://serrano.house.gov/sites/serrano.house.gov/files/DHSletter.pdf>; letter sent to DHS Inspector General Charles Edwards available at: <http://serrano.house.gov/sites/serrano.house.gov/files/DHSIGletter.pdf>; letter sent to DOJ Attorney General Eric Holder available at: <http://serrano.house.gov/sites/serrano.house.gov/files/DoJLetter.pdf>

<sup>25</sup> Grand Jury Probes Anastasio Hernandez Border Death, available <http://www.kpbs.org/news/2012/jul/12/grand-jury-probes-border-death/>

<sup>26</sup> See, e.g., Bret Stephens, "The Paradoxes of Felipe Calderón," *Wall Street Journal* (Sept. 28, 2012), available at [http://online.wsj.com/article/SB10000872396390443916104578022440624610104.html?mod=hp\\_opinion](http://online.wsj.com/article/SB10000872396390443916104578022440624610104.html?mod=hp_opinion)

<sup>27</sup> See "IACHR condemns the recent death of Mexican national by U.S. Border Patrol Agents." (July 24, 2012), available at [http://www.oas.org/en/iachr/media\\_center/PReleases/2012/093.asp](http://www.oas.org/en/iachr/media_center/PReleases/2012/093.asp)

<sup>28</sup> See U.N. Radio, "United States urged to probe deaths of Mexican migrants at border." (May 29, 2012), available at <http://www.unmultimedia.org/radio/english/2012/05/united-states-urged-to-probe-deaths-of-mexican-migrants-at-border/>

norms and standards. As employees of the nation's largest law enforcement agency, CBP personnel should be trained and held to the highest professional law enforcement standards. Systemic, robust, and permanent oversight and accountability mechanisms for CBP should be integral to border security measures. Congress must seize this moment for immigration reform to transform border enforcement in a manner that is fiscally responsible, enlists border communities in defining their true needs and upholds Constitutional rights and American values.

### **III. Conclusion**

The ACLU urges Congress to prioritize the reduction of abuses in the currently-oppressive immigration and border enforcement system which has cost \$219 billion in today's dollars since 1986.<sup>29</sup> By jettisoning proposals for escalated border security that clash with civil liberties and thereby creating space for genuine immigration reform, Congress can ensure that the roadmap to citizenship for aspiring Americans is a generous one, free of unjust obstacles. Members would thereby maximize the historic expansion of Constitutional freedoms for spouses, friends, parishioners, and neighbors in our communities, who contribute every day to their successes and deserve full and prompt citizenship.

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<sup>29</sup> Robbins, "*U.S. Grows*," *supra*.

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**GAO**

**United States Government Accountability Office**

Statement for the Record to the  
Committee on Homeland Security and  
Governmental Affairs, U.S. Senate

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For Release on Delivery  
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Thursday, March 14, 2013

## **BORDER SECURITY**

### **DHS's Progress and Challenges in Securing U.S. Borders**

Statement for the Record by Rebecca Gambler, Director  
Homeland Security and Justice



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GAO-13-414T



# GAO Highlights

Highlights of GAO-13-4147, a statement for the record to the Committee on Homeland Security and Governmental Affairs, U.S. Senate

## Why GAO Did This Study

At the end of fiscal year 2004, DHS had about 28,100 personnel assigned to patrol U.S. land borders and inspect travelers at air, land, and sea POEs, at a cost of about \$5.4 billion. At the end of fiscal year 2011, DHS had about 41,400 personnel assigned to air, land, and sea POEs and along the border, at a cost of about \$11.8 billion. DHS has reported that this stronger enforcement presence was one of several reasons why fewer people were attempting to illegally cross the border. However, challenges remain in securing the border. In recent years, GAO has reported on a variety of DHS border security programs and operations.

As requested, this statement addresses some of the key issues and recommendations GAO has made in the following areas: (1) DHS's efforts to secure the border of and between POEs; (2) DHS interagency coordination and oversight of border security operations; staffing and enforcement efforts; and (3) DHS management of infrastructure, technology, and other assets used to secure the border. This statement is based on prior products GAO issued from January 2009 through February 2011, along with selected updates concluded in February 2013. For the selected updates, GAO reviewed information from DHS or actions it has taken to address prior GAO recommendations.

## What GAO Recommends

While this statement contains no new recommendations, GAO has previously made recommendations to DHS to enhance border security. DHS has generally concurred with these recommendations and has taken actions, or has actions planned or under way, to address them.

View GAO-13-4147. For more information, contact Rebecca Cervone at (202) 512-4819 or rcervone@gao.gov.

March 14, 2013

## BORDER SECURITY

### DHS's Progress and Challenges in Securing U.S. Borders

## What GAO Found

U.S. Customs and Border Protection (CBP), part of the Department of Homeland Security (DHS), has reported progress in stemming illegal cross-border activity, but it could strengthen the assessment of its efforts. For example, since fiscal year 2011, DHS has used the number of apprehensions on the southwest border between ports of entry (POE) as an interim measure for border security. GAO reported in December 2012 that apprehensions decreased across the southwest border from fiscal years 2006 to 2011, which generally mirrored a decrease in estimated known illegal entries in each southwest border sector. CBP attributed this decrease in part to changes in the U.S. economy and increased resources for border security. Data reported by CBP's Office of Border Patrol (Border Patrol) show that total apprehensions across the southwest border increased from over 327,000 in fiscal year 2011 to about 357,000 in fiscal year 2012. It is too early to assess whether this increase indicates a change in the trend. GAO reported in December 2012 that the number of apprehensions provides information on activity levels but does not inform program results or resource allocation decisions. Border Patrol is in the process of developing performance goals and measures for assessing the progress of its efforts to secure the border between POEs, but it has not identified milestones and time frames for developing and implementing them, which GAO recommended that it do. DHS agreed and said that it plans to set a date for establishing such milestones and time frames by November 2013.

DHS law enforcement partners reported improvements in interagency coordination and oversight of intelligence and enforcement operations, but gaps remain. GAO reported in November 2010 that information sharing and communication among federal law enforcement officials had increased; however, gaps remained in ensuring law enforcement officials had access to daily threat information. GAO recommended that relevant federal agencies determine if more guidance is needed for federal law closures and that they ensure interagency agreements for coordinating information and integrating operations are further implemented. These agencies agreed and in January 2011, CBP issued a memorandum affirming the importance of federal partnerships to address border security threats on federal lands. While this is a positive step, to fully satisfy the intent of GAO's recommendation, DHS needs to take further action to monitor and uphold implementation of the existing interagency agreements.

Opportunities exist to improve DHS's management of border security assets. For example, DHS conceived the Secure Border Initiative Network as a surveillance technology and deployed such systems along 53 miles of Arizona's border. In January 2011, in response to performance, cost, and schedule concerns, DHS canceled future procurements, and developed the Arizona Border Surveillance Technology Plan (Plan) for the remainder of the Arizona border. GAO reported in November 2011 that in developing the new Plan, CBP conducted an analysis of alternatives, but it had not documented the analysis justifying the specific types, quantities, and deployment locations of technologies proposed in the Plan, which GAO recommended that it do. DHS concurred with this recommendation. GAO has ongoing work in this area and expects to issue a report in fall 2013.

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Chairman Carper, Ranking Member Coburn, and Members of the Committee:

I am pleased to submit this statement on the Department of Homeland Security's (DHS) efforts to secure U.S. borders against threats of terrorism; the smuggling of drugs, humans, and other contraband; and illegal migration since the terrorist attacks of September 11, 2001. At the end of fiscal year 2004, the first full year DHS existed as an agency, it had about 10,500 agents assigned to patrol the U.S. land borders and about 17,600 officers inspecting travelers at air, land, and sea ports of entry (POE),<sup>1</sup> and a total of about \$5.9 billion allocated to secure the entire U.S. border.<sup>2</sup> At the end of fiscal year 2011, both the number of personnel and amount of resources dedicated to border security had significantly increased, with approximately 21,400 agents assigned to patrol the U.S. land borders and more than 20,000 officers assigned to air, land, and sea POEs,<sup>3</sup> amounting to about \$11.8 billion allocated to secure the entire U.S. border.

DHS has reported that this stronger enforcement presence was one of several reasons, including changes in the U.S. economy, why fewer people were attempting to illegally cross the border. However, challenges remain in securing the border both at and between land POEs. For example, DHS data have shown that several hundred thousand persons have entered the country illegally through and between the nation's POEs. Further, our analysis of DHS data indicated that across southwest border sectors, seizures of drugs and other contraband increased 83

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<sup>1</sup>POEs are the facilities that provide for the controlled entry into or departure from the United States for persons and materials. Specifically, a POE is any officially designated location (seaport, airport, or land border location) where DHS officers or employees are assigned to clear passengers and merchandise, collect duties, and enforce customs laws.

<sup>2</sup>The number of border agents includes those assigned to northern and southwest border sectors. The number of officers assigned to POEs does not include those performing trade or agricultural inspections. The \$5.9 billion includes all funds appropriated to DHS for border security in fiscal year 2004.

<sup>3</sup>In fiscal years 2011 and 2012, appropriations acts provided that Border Patrol was to maintain an active duty presence of no fewer than 21,370 agents protecting the border of the United States. Department of Defense and Full-Year Continuing Appropriations Act, 2011, div. B, tit. VI, § 1608, Pub. L. No. 112-10, 125 Stat. 38, 140; Consolidated Appropriations Act, 2012, div. D, tit. II, Pub. L. No. 112-74, 125 Stat. 786, 945-46 (2011).

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percent from fiscal years 2006 through 2011—from 10,321 to 18,898.<sup>4</sup> In fiscal year 2012, DHS data indicate that seizures decreased to 17,891 across the southwest border.

DHS's efforts to secure the border at and between the POEs are the primary responsibility of the U.S. Customs and Border Protection's (CBP) Office of Field Operations (OFO)<sup>5</sup> and Office of Border Patrol.<sup>6</sup> respectively. Other DHS components also play a role in border security. CBP's Office of Air and Marine operates a fleet of air and marine assets in support of federal border security efforts. DHS's U.S. Immigration and Customs Enforcement (ICE) is responsible for investigating cross-border illegal activity and criminal organizations that transport persons and goods across the border. In addition, other federal, state, local, and tribal law enforcement agencies expend resources for border security. For example, the Departments of the Interior (DOI) and Agriculture (USDA) have jurisdiction for law enforcement on federal borderlands administered by their component agencies, including DOI's National Park Service, Fish and Wildlife Service, and Bureau of Land Management, and USDA's Forest Service.

Over the years, we have reported on a variety of DHS border security programs and operations. As requested, my statement discusses progress and challenges in the following areas:

- (1) DHS's efforts to secure the border at and between POEs,
- (2) DHS interagency coordination and oversight of border security information sharing and enforcement efforts, and

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<sup>4</sup>Drugs accounted for the vast majority of all contraband seizures; contraband seizures other than drugs include firearms, ammunition, and money.

<sup>5</sup>OFO is responsible for processing the flow of people and goods that enter the country through air, land, and sea POEs where CBP officers inspect travelers and goods to determine whether they may be legally admitted into the country.

<sup>6</sup>Border Patrol works to prevent the illegal entry of persons and contraband into the United States between POEs by using intelligence information to inform risk relative to threats of cross-border terrorism, drug smuggling, and illegal migration across locations; integrating border security operations with other law enforcement partners to address threats; and developing rapid response capabilities to deploy the resources appropriate to changes in threat.

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(3) DHS management of infrastructure, technology, and other assets used to secure the border.

This statement is based on related reports and testimonies we issued from January 2008 through February 2013 that examined DHS efforts to secure the U.S. border (see Related GAO Products at the end of this statement). It also includes selected updates we conducted in February 2013. Our reports and testimonies incorporated information we obtained and analyzed from officials from various DHS components; the Departments of Justice (DOJ), DOI, and USDA; and state and local law enforcement agencies. More detailed information about our scope and methodology can be found in our reports and testimonies. For the updates, we collected information from DHS on actions it has taken to address recommendations made in prior reports on which this statement is based. We also reviewed publicly available documents, such as CBP's budget justification for fiscal year 2013. We conducted all of this work in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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**CBP Has Reported  
Progress in Stemming  
Illegal Cross-Border  
Activity, but Could  
Strengthen  
Assessment of Its  
Efforts**

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**Border Patrol Has  
Reported Some Success in  
Reducing Illegal Migration,  
but Challenges Remain in  
Assessing Efforts**

Since fiscal year 2011, DHS has used changes in the number of apprehensions on the southwest border between POEs as an interim measure for border security, as reported in its annual performance reports. As we reported in December 2012, our data analysis showed that apprehensions across the southwest border decreased 69 percent from fiscal years 2006 through 2011.<sup>7</sup> These data generally mirrored a decrease in estimated known illegal entries in each southwest border sector. As we testified in February 2013, data reported by Border Patrol following the issuance of our December 2012 report show that total apprehensions across the southwest border increased from over 327,000 in fiscal year 2011 to about 357,000 in fiscal year 2012.<sup>8</sup> It is too early to assess whether this increase indicates a change in the trend for Border Patrol apprehensions across the southwest border. Through fiscal year 2011, Border Patrol attributed decreases in apprehensions across sectors in part to changes in the U.S. economy, achievement of strategic objectives, and increased resources for border security.

In addition to collecting data on apprehensions, Border Patrol collects other types of data that are used by sector management to help inform assessment of its efforts to secure the border against the threats of illegal migration and smuggling of drugs and other contraband. These data

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<sup>7</sup>GAO, *Border Patrol: Key Elements of New Strategic Plan Not Yet in Place to Inform Border Security Status and Resource Needs*, GAO-13-25 (Washington, D.C.: Dec. 10, 2012).

<sup>8</sup>GAO, *Border Patrol: Goals and Measures Not Yet in Place to Inform Border Security Status and Resource Needs*, GAO-13-330T (Washington, D.C.: Feb. 26, 2013).

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show changes, for example, in the (1) percentage of estimated known illegal entrants who are apprehended, (2) percentage of estimated known illegal entrants who are apprehended more than once (repeat offenders), and (3) number of seizures of drugs and other contraband.<sup>9</sup> Our analysis of these data show that the percentage of estimated known illegal entrants apprehended from fiscal years 2006 through 2011 varied across southwest border sectors. The percentage of individuals apprehended who repeatedly crossed the border illegally declined by 6 percent from fiscal years 2008 through 2011. Further, the number of seizures of drugs and other contraband across the border increased from 10,321 in fiscal year 2006 to 18,898 in fiscal year 2011.

As we reported in December 2012, Border Patrol sectors and stations track changes in their overall effectiveness as a tool to determine if the appropriate mix and placement of personnel and assets are being deployed and used effectively and efficiently, according to officials from Border Patrol headquarters.<sup>10</sup> Border Patrol data showed that the effectiveness rate for eight of the nine sectors on the southwest border improved from fiscal years 2006 through 2011.<sup>11</sup> Border Patrol headquarters officials said that differences in how sectors define, collect, and report turn back data (entrants who illegally crossed the border but

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<sup>9</sup>Border Patrol's estimate of known illegal entries includes illegal, deportable entrants who were apprehended, in addition to the number of entrants who illegally crossed the border but were not apprehended because they crossed back into Mexico (referred to as turn backs) or continued traveling into the U.S. interior (referred to as got aways). We defined these illegal entries as estimated "known" illegal entries to clarify that the estimates do not include illegal entrants for which Border Patrol does not have reasonable indications of cross-border illegal activity. These data are collectively referred to as known illegal entries because Border Patrol officials have what they deem to be a reasonable indication that the cross-border activity occurred. Indications of illegal crossings are obtained through various sources such as direct agent observation, referrals from credible sources (such as residents), camera monitoring, and detection of physical evidence left on the environment from animal or human crossings.

<sup>10</sup>Border Patrol calculates an overall effectiveness rate using a formula in which it adds the number of apprehensions and turn backs in a specific sector and divides this total by the total estimated known illegal entries—determined by adding the number of apprehensions, turn backs, and got aways for the sector. Border Patrol views its border security efforts as increasing in effectiveness if the number of turn backs as a percentage of estimated known illegal entries has increased and the number of got aways as a percentage of estimated known illegal entries has decreased.

<sup>11</sup>The exception was the Big Bend sector, which showed a decrease in the overall effectiveness rate from 86 percent in fiscal year 2006 to 68 percent in fiscal year 2011.

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were not apprehended because they crossed back into Mexico) and got away data (entrants who illegally crossed the border and continued traveling into the U.S. interior) used to calculate the overall effectiveness rate preclude comparing performance results across sectors. Border Patrol headquarters officials stated that until recently, each Border Patrol sector decided how it would collect and report turn back and got away data, and as a result, practices for collecting and reporting the data varied across sectors and stations based on differences in agent experience and judgment, resources, and terrain. Border Patrol headquarters officials issued guidance in September 2012 to provide a more consistent, standardized approach for the collection and reporting of turn back and got away data by Border Patrol sectors. Each sector is to be individually responsible for monitoring adherence to the guidance. According to Border Patrol officials, it is expected that once the guidance is implemented, data reliability will improve. This new guidance may allow for comparison of sector performance and inform decisions regarding resource deployment for securing the southwest border.

Border Patrol is in the process of developing performance goals and measures for assessing the progress of its efforts to secure the border between ports of entry and for informing the identification and allocation of resources needed to secure the border, but has not identified milestones and time frames for developing and implementing them. Since fiscal year 2011, DHS has used the number of apprehensions on the southwest border between ports of entry as an interim performance goal and measure for border security as reported in its annual performance report. Prior to this, DHS used operational control as its goal and outcome measure for border security and to assess resource needs to accomplish this goal.<sup>12</sup> Operational control—also referred to as effective control—was defined as the number of border miles where Border Patrol had the capability to detect, respond to, and interdict cross-border illegal activity. DHS last reported its progress and status in achieving operational control of the borders in fiscal year 2010. At that time, DHS reported achieving operational control for 1,107 (13 percent) of 8,607 miles across U.S. northern, southwest, and coastal borders.<sup>13</sup> Along the southwest border,

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<sup>12</sup>Border Patrol sector officials assessed the miles under operational control using factors such as operational statistics, third-party indicators, intelligence and operational reports, resource deployments, and discussions with senior Border Patrol agents.

<sup>13</sup>GAO, *Border Patrol Strategy: Progress and Challenges in Implementation and Assessment Efforts*, GAO-12-688T (Washington, D.C.: May 8, 2012).

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DHS reported achieving operational control for 873 (44 percent) of the about 2,000 border miles.<sup>14</sup> At the beginning of fiscal year 2011, DHS transitioned from using operational control as its goal and outcome measure for border security. We testified in May 2012 that the interim goal and measure of number of apprehensions on the southwest border between POEs provides information on activity levels but does not inform program results or resource identification and allocation decisions, and therefore until new goals and measures are developed, DHS and Congress could experience reduced oversight and DHS accountability.<sup>15</sup> Further, studies commissioned by CBP have found that the number of apprehensions bears little relationship to effectiveness because agency officials do not compare these numbers with the amount of cross-border illegal activity.<sup>16</sup>

Border Patrol officials stated that the agency is in the process of developing performance goals and measures, but has not identified milestones and time frames for developing and implementing them. According to Border Patrol officials, establishing milestones and time frames for the development of performance goals and measures is contingent on the development of key elements of its new strategic plan, such as a risk assessment tool, and the agency's time frames for implementing these key elements—targeted for fiscal years 2013 and 2014—are subject to change. We recommended that CBP establish milestones and time frames for developing a performance goal, or goals, for border security between ports of entry that defines how border security is to be measured, and a performance measure, or measures, for assessing progress made in securing the border between ports of entry and informing resource identification and allocation efforts. DHS concurred with our recommendations and stated that it plans to set milestones and timeframes for developing goals and measures by November 2013.

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<sup>14</sup>GAO, *Border Security: Preliminary Observations on Border Control Measures for the Southwest Border*, GAO-11-374T (Washington, D.C.: Feb. 15, 2011).

<sup>15</sup>GAO-12-688T.

<sup>16</sup>For example, see Homeland Security Institute, *Measuring the Effect of the Arizona Border Control Initiative* (Arlington, Va.: Oct. 18, 2005).



**CBP Has Taken Action to Strengthen POE Inspection Programs and Officer Training, and Has Additional Actions Planned or Underway**

As part of its homeland security and legacy customs missions, CBP inspects travelers arriving at POEs to counter threats posed by terrorists and others attempting to enter the country with fraudulent or altered travel documents and to prevent inadmissible aliens, criminals, and inadmissible goods from entering the country. In fiscal year 2012, CBP inspected about 352 million travelers and over 107 million cars, trucks, buses, trains, vessels, and aircraft at over 329 air, sea, and land POEs. We have previously identified vulnerabilities in the traveler inspection program and made recommendations to DHS for addressing these vulnerabilities, and DHS implemented these recommendations. We reported in January 2008 on weaknesses in CBP's inbound traveler inspection program,<sup>17</sup> including challenges in attaining budgeted staffing levels because of attrition and lack of officer compliance with screening procedures, such as those used to determine citizenship and admissibility of travelers entering the country as required by law and CBP policy.<sup>18</sup> Contributing factors included a lack of focus, complacency, lack of supervisory presence, and lack of training. We recommended that CBP enhance internal controls in the inspection process, implement performance measures for apprehending inadmissible aliens and other violators, and establish measures for training provided to CBP officers and new officer proficiency. DHS concurred with these recommendations and has implemented them. Specifically, in January 2008, CBP reported, among other things, that all land port directors are required to monitor and assess compliance with eight different inspection activities using a self-inspection worksheet that is provided to senior CBP management. At that time, CBP also established performance measures related to the effectiveness of CBP interdiction efforts. Additionally, in June 2011, CBP began conducting additional classroom and on-the-job training, which incorporated ongoing testing and evaluation of officer proficiency.

In December 2011, we reported that CBP had revised its training program for newly hired CBP officers in accordance with its own training

<sup>17</sup>GAO, *Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry*, GAO-08-329T (Washington, D.C.: Jan. 3, 2008).

<sup>18</sup>The Immigration and Nationality Act, implementing regulations, and CBP policies and procedures for traveler inspection at all POEs require officers to establish, at a minimum, the nationality of individuals and whether they are eligible to enter the country. See 8 U.S.C. § 1225(a); 8 C.F.R. § 235.1(a), (b), (f)(1).

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development standards.<sup>19</sup> Consistent with these standards, CBP convened a team of subject-matter experts to identify and rank the tasks that new CBP officers are expected to perform. As a result, the new curriculum was designed to produce a professional law enforcement officer capable of protecting the homeland from terrorist, criminal, biological, and agricultural threats.

We also reported that CBP took some steps to identify and address the training needs of its incumbent CBP officers but could do more to ensure that these officers were fully trained. For example, we examined CBP's results of covert tests of document fraud detection at POEs conducted over more than 2 years and found weaknesses in the CBP inspection process at the POEs that were tested. In response to these tests, CBP developed a "Back to Basics" course in March 2010 for incumbent officers, but had no plans to evaluate the effectiveness of the training. Additionally, CBP had not conducted an analysis of all the possible causes or systemic issues that may have contributed to the test results. We recommended in December 2011 that CBP evaluate the "Back to Basics" training course and analyze covert tests, and DHS concurred with these recommendations. In April 2012, CBP officials notified GAO that it had completed its evaluation of the "Back to Basics" training course and implemented an updated, subsequent training course. In November 2012, CBP officials stated they had analyzed the results of covert tests prior to and since the implementation of the subsequent course. GAO is currently reviewing CBP's analysis of the covert test results and other documentation CBP has provided to determine the extent to which CBP has addressed this recommendation. Further, in July 2012 CBP completed a comprehensive analysis of the results of its document fraud covert tests from fiscal years 2009 to 2011. In addition, we reported that CBP had not conducted a needs assessment that would identify any gaps between identified critical skills and incumbent officers' current skills and competencies. We recommended in December 2011 that CBP conduct a training needs assessment. DHS concurred with this recommendation. In January 2013, CBP notified GAO it had developed a survey of incumbent officers to seek feedback on possible gaps in training. CBP is currently analyzing the survey results and preparing a report, which will recommend a path forward to address training needs. According to CBP,

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<sup>19</sup>GAO, *Border Security: Additional Steps Needed to Ensure Officers are Fully Trained*, GAO-12-269 (Washington, D.C.: Dec. 22, 2011).

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if an additional training need is identified and funding is available, CBP will develop or revise the current training program. In February 2013, CBP officials stated it plans to complete this process by April 15, 2013.

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DHS Law  
Enforcement Partners  
Reported Improved  
Results for  
Interagency  
Coordination and  
Oversight of  
Intelligence and  
Enforcement  
Operations, but Gaps  
Remain

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DOI and USDA Reported  
Improved DHS  
Coordination to Secure  
Federal Borderlands, but  
Critical Gaps Remained in  
Sharing Intelligence and  
Communications for Daily  
Operations

Illegal cross-border activity remains a significant threat to federal lands protected by DOI and USDA law enforcement personnel on the southwest and northern borders and can cause damage to natural, historic, and cultural resources, and put agency personnel and the visiting public at risk. We reported in November 2010 that information sharing and communication among DHS, DOI, and USDA law enforcement officials had increased in recent years.<sup>20</sup> For example, interagency forums were used to exchange information about border issues, and interagency liaisons facilitated exchange of operational statistics. However, gaps remained in implementing interagency agreements to ensure law enforcement officials had access to daily threat information to better ensure officer safety and an efficient law enforcement response to illegal activity. For example, in Border Patrol's Spokane sector on the northern border, coordination of intelligence information was particularly important

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<sup>20</sup>GAO, *Border Security: Additional Actions Needed to Better Ensure a Coordinated Federal Response to Illegal Activity on Federal Lands*, GAO-11-177 (Washington, D.C.: Nov. 18, 2010).

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because of sparse law enforcement presence and technical challenges that precluded Border Patrol's ability to fully assess cross-border threats, such as air smuggling of high-potency marijuana.

We recommended DHS, DOI, and USDA provide oversight and accountability as needed to further implement interagency agreements for coordinating information and integrating operations. These agencies agreed with our recommendations, and in January 2011, CBP issued a memorandum to all Border Patrol division chiefs and chief patrol agents emphasizing the importance of USDA and DOI partnerships to address border security threats on federal lands. While this is a positive step, to fully satisfy the intent of our recommendation, DHS would need to take further action to monitor and uphold implementation of the existing interagency agreements to enhance border security on federal lands.

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Northern Border Partners  
Reported Interagency  
Forums Improved  
Coordination, but DHS  
Oversight Was Needed to  
Resolve Interagency  
Conflict in Roles and  
Responsibilities

DHS has stated that partnerships with other federal, state, local, tribal, and Canadian law enforcement agencies are critical to the success of northern border security efforts. We reported in December 2010 that DHS efforts to coordinate with these partners through interagency forums and joint operations were considered successful, according to a majority of these partners we interviewed.<sup>21</sup> In addition, DHS component officials reported that federal agency coordination to secure the northern border was improved. However, DHS did not provide oversight for the number and location of forums established by its components, and numerous federal, state, local, and Canadian partners cited challenges related to the inability to resource the increasing number of forums, raising concerns that some efforts may be overlapping. In addition, federal law enforcement partners in all four locations we visited as part of our work cited ongoing challenges between Border Patrol and ICE, Border Patrol and Forest Service, and ICE and DOJ's Drug Enforcement Administration in sharing information and resources that compromised daily border security related to operations and investigations. DHS had established and updated interagency agreements to address ongoing coordination challenges; however, oversight by management at the component and local levels has not ensured consistent compliance with provisions of these agreements.

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<sup>21</sup>GAO, *Border Security: Enhanced DHS Oversight and Assessment of Interagency Coordination Is Needed for the Northern Border*, GAO-11-97 (Washington, D.C.: Dec. 17, 2010).

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We also reported in December 2010 that while Border Patrol's border security measures reflected that there was a high reliance on law enforcement support from outside the border zones, the extent of partner law enforcement resources that could be leveraged to fill Border Patrol resource gaps, target coordination efforts, and make more efficient resource decisions was not reflected in Border Patrol's processes for assessing border security and resource requirements. We recommended that DHS provide guidance and oversight for interagency forums and for component compliance with interagency agreements, and develop policy and guidance necessary to integrate partner resources in border security assessments and resource planning documents. DHS agreed with our recommendations and has reported taking action to address them. For example, in June 2012, DHS released a northern border strategy, and in August 2012, DHS notified us of other cross-border law enforcement and security efforts taking place with Canada. However, in order to fully satisfy the intention of our recommendation, DHS would need to develop an implementation plan that specifies the resources and time frames needed to achieve the goals set forth in the strategy.

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### Opportunities Exist to Improve DHS's Management of Border Security Assets

DHS Has Deployed Assets to Secure the Borders, but Needs to Provide More Information on Plans, Metrics, and Costs

In November 2005, DHS launched the Secure Border Initiative (SBI), a multiyear, multibillion-dollar program aimed at securing U.S. borders and reducing illegal immigration. Through this initiative, DHS planned to develop a comprehensive border protection system using technology, known as the Secure Border Initiative Network (SBInet), and tactical infrastructure—fencing, roads, and lighting. Under this program, CBP increased the number of southwest border miles with pedestrian and vehicle fencing from 120 miles in fiscal year 2005 to about 650 miles

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presently.<sup>22</sup> We reported in May 2010 that CBP had not accounted for the impact of its investment in border fencing and infrastructure on border security.<sup>23</sup> Specifically, CBP had reported an increase in control of southwest border miles, but could not account separately for the impact of the border fencing and other infrastructure. In September 2009, we recommended that CBP determine the contribution of border fencing and other infrastructure to border security.<sup>24</sup> DHS concurred with our recommendation and, in response, CBP contracted with the Homeland Security Studies and Analysis Institute to conduct an analysis of the impact of tactical infrastructure on border security. CBP reported in February 2012 that preliminary results from this analysis indicate that an additional 3 to 5 years are needed to ensure a credible assessment.

Since the launch of SBI in 2005, we have identified a range of challenges related to schedule delays and performance problems with SBInet. SBInet was conceived as a surveillance technology to create a "virtual fence" along the border, and after spending nearly \$1 billion, DHS deployed SBInet systems along 53 miles of Arizona's border that represent the highest risk for illegal entry. In January 2011, in response to concerns regarding SBInet's performance, cost, and schedule, DHS canceled future procurements. CBP developed the Arizona Border Surveillance Technology Plan (the Plan) for the remainder of the Arizona border.

In November 2011, we reported that CBP does not have the information needed to fully support and implement its Plan in accordance with DHS and Office of Management and Budget (OMB) guidance.<sup>25</sup> In developing the Plan, CBP conducted an analysis of alternatives and outreach to potential vendors. However, CBP did not document the analysis justifying

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<sup>22</sup>The length of the border with Mexico is defined by the U.S. International Boundary and Water Commission at 1,954 miles. The length of the land border is 675 miles, while the length of the border along the Colorado River and Rio Grande River is 1,279 miles.

<sup>23</sup>GAO, *Secure Border Initiative: DHS Has Faced Challenges Deploying Technology and Fencing Along the Southwest Border*, GAO-10-651T (Washington, D.C.: May 4, 2010).

<sup>24</sup>GAO, *Secure Border Initiative: Technology Deployment Delays Persist and the Impact of Border Fencing Has Not Been Assessed*, GAO-09-896 (Washington, D.C.: Sept. 9, 2009).

<sup>25</sup>GAO, *Arizona Border Surveillance Technology: More Information on Plans and Costs Is Needed before Proceeding*, GAO-12-22 (Washington, D.C.: Nov. 4, 2011).

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the specific types, quantities, and deployment locations of border surveillance technologies proposed in the Plan. Specifically, according to CBP officials, CBP used a two-step process to develop the Plan. First, CBP engaged the Homeland Security Studies and Analysis Institute to conduct an analysis of alternatives beginning with ones for Arizona. Second, following the completion of the analysis of alternatives, the Border Patrol conducted its operational assessment, which included a comparison of alternative border surveillance technologies and an analysis of operational judgments to consider both effectiveness and cost. While the first step in CBP's process to develop the Plan—the analysis of alternatives—was well documented, the second step—Border Patrol's operational assessment—was not transparent because of the lack of documentation. As we reported in November 2011, without documentation of the analysis justifying the specific types, quantities, and deployment locations of border surveillance technologies proposed in the Plan, an independent party cannot verify the process followed, identify how the analysis of alternatives was used, assess the validity of the decisions made, or justify the funding requested. We also reported that CBP officials have not yet defined the mission benefits expected from implementing the new Plan, and defining the expected benefit could help improve CBP's ability to assess the effectiveness of the Plan as it is implemented.

In addition, we reported that CBP's 10-year life cycle cost estimate for the Plan of \$1.5 billion was based on an approximate order-of-magnitude analysis, and agency officials were unable to determine a level of confidence in their estimate, as best practices suggest. Specifically, we found that the estimate reflected substantial features of best practices, being both comprehensive and accurate, but it did not sufficiently meet other characteristics of a high-quality cost estimate, such as credibility, because it did not identify a level of confidence or quantify the impact of risks. GAO and OMB guidance emphasize that reliable cost estimates are important for program approval and continued receipt of annual funding. In addition, because CBP was unable to determine a level of confidence in its estimate, we reported that it would be difficult for CBP to determine what levels of contingency funding may be needed to cover risks associated with implementing new technologies along the remaining Arizona border.

We recommended in November 2011 that, among other things, CBP document the analysis justifying the technologies proposed in the Plan, determine its mission benefits, and determine a more robust life cycle cost estimate for the Plan. DHS concurred with these recommendations,

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and has reported taking action to address some of the recommendations. For example, in October 2012, CBP officials reported that, through the operation of two surveillance systems under SBlnet's initial deployment in high-priority regions of the Arizona border, CBP has identified examples of mission benefits that could result from implementing technologies under the Plan. Additionally, CBP initiated action to update its cost estimate for the Plan by providing revised cost estimates in February and March 2012 for the Integrated Fixed Towers and Remote Video Surveillance System, the Plan's two largest projects. We currently have ongoing work for congressional requesters to assess CBP's progress in this area and expect to issue a report with our final results in the fall of 2013.

In March 2012, we reported that the CBP Office of Air and Marine (OAM)—which provides aircraft, vessels, and crew at the request of its customers, primarily Border Patrol—had not documented significant events, such as its analyses to support its asset mix and placement across locations, and as a result, lacked a record to help demonstrate that its decisions to allocate resources were the most effective ones in fulfilling customer needs and addressing threats.<sup>26</sup> OAM issued various plans that included strategic goals, mission responsibilities, and threat information. However, we could not identify the underlying analyses used to link these factors to the mix and placement of resources across locations. OAM did not have documentation that clearly linked the deployment decisions in the plan to mission needs or threats. For example, while the southwest border was Border Patrol's highest priority for resources in fiscal year 2010, it did not receive a higher rate of air support than the northern border. Similarly, OAM did not document analyses supporting the current mix and placement of marine assets across locations. OAM officials said that while they generally documented final decisions affecting the mix and placement of resources, they did not have the resources to document assessments and analyses to support these decisions. However, we reported that such documentation of significant events could help the office improve the transparency of its resource allocation decisions to help demonstrate the effectiveness of these resource decisions in fulfilling its mission needs and addressing threats. We recommended in March 2012 that CBP document analyses,

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<sup>26</sup>GAO, *Border Security: Opportunities Exist to Ensure More Effective Use of DHS's Air and Marine Assets*, GAO-12-518 (Washington, D.C.: Mar. 30, 2012).



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including mission requirements and threats, that support decisions on the mix and placement of OAM's air and marine resources. DHS concurred with our recommendation and stated that it plans to provide additional documentation of its analyses supporting decisions on the mix and placement of air and marine resources by 2014.

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**DHS US-VISIT Program Technology Provides an Opportunity to Identify Illegal Migration through Overstays**

DHS took action in 2004 to better monitor and control the entry and exit of foreign visitors to the United States by establishing the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program, which tracks foreign visitors using biometric information (such as fingerprints) and biographic information. DHS has incrementally delivered US-VISIT capabilities to track foreign entries, and a biometrically enabled entry capability has been fully operational at about 300 air, sea, and land POEs since December 2006.<sup>27</sup>

Since 2004, however, we have identified a range of DHS management challenges to fully deploying a biometric exit capability intended, in part, to track foreigners who had overstayed their visas and remained illegally in the United States. For example, in November 2009, we reported that DHS had not adopted an integrated approach to scheduling, executing, and tracking the work needed to deliver a comprehensive exit solution.<sup>28</sup> In August 2010, we reported that the DHS pilot programs to track the exit of foreign visitors at air POEs had limitations curtailing the ability to inform a decision for a long-term exit solution at these POEs.<sup>29</sup>

In the absence of a biometric entry and exit system, DHS uses various methods for identifying overstays, primarily biographic data, and sharing of overstay information.<sup>30</sup> US-VISIT identifies overstays by analyzing biographic data maintained in the Arrival and Departure Information

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<sup>27</sup>GAO, *Homeland Security: Key US-VISIT Components at Varying Stages of Completion, but Integrated and Reliable Schedule Needed*, GAO-10-13 (Washington, D.C.: Nov. 19, 2009).

<sup>28</sup>GAO-10-13.

<sup>29</sup>GAO, *Homeland Security: US-VISIT Pilot Evaluations Offer Limited Understanding of Air Exit Options*, GAO-10-860 (Washington, D.C.: Aug. 10, 2010).

<sup>30</sup>GAO, *Overstay Enforcement: Additional Mechanisms for Collecting, Assessing, and Sharing Data Could Strengthen DHS's Efforts but Would Have Costs*, GAO-11-411 (Washington, D.C. Apr. 15, 2011).

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System—a database that contains information on aliens' entry, exit, and change of status—and electronically and manually comparing Arrival and Departure Information System records with information in other databases to find matches that demonstrate that a nonimmigrant may have, for instance, departed the country or filed an application to change status and thus is not an overstay. Additionally, DHS shares overstay information among its components through various mechanisms, such as alerts that can inform a CBP primary inspection officer at a POE of a nonimmigrant's history as an overstay violator, at which point the officer can refer the nonimmigrant to secondary inspection for a more in-depth review of the alien's record and admissibility. Furthermore, ICE's Counterterrorism and Criminal Exploitation Unit uses data provided by US-VISIT and various databases to identify leads for overstay cases, take steps to verify the accuracy of the leads, prioritize leads to focus on those identified as most likely to pose a threat to national security or public safety, and conduct field investigations on priority, high-risk leads. From fiscal years 2006 through 2010, ICE reported devoting a relatively constant percent of its total field office investigative hours to Counterterrorism and Criminal Exploitation Unit overstay investigations, ranging from 3.1 to 3.4 percent.

We reported in April 2011 that DHS was creating electronic alerts for certain categories of overstays, such as those who overstay by more than 90 days, but was not creating alerts for those who overstay by less than 90 days to focus efforts on more egregious overstay violators, as identified by CBP. We recommended in April 2011 that DHS assess the costs and benefits of creating additional alerts, and DHS concurred with this recommendation. DHS has since reported that it would begin creating additional alerts, which could improve the chance that these individuals are identified as overstays during subsequent encounters with federal officials. We have additional work ongoing for congressional requesters in this area regarding DHS's identification of and enforcement actions against overstays and expect to issue a report with our final results in the summer of 2013.

This concludes my statement for the record.



**Statement for the Record**

**Senate Homeland Security and Government Affairs Committee**

**“Border Security: Measuring the Progress and Addressing the Challenges”**

**March 14, 2013**

The National Immigration Forum works to uphold America’s tradition as a nation of immigrants. The Forum advocates for the value of immigrants and immigration to the nation, building support for public policies that reunite families, recognize the importance of immigration to our economy and our communities, protect refugees, encourage newcomers to become new Americans and promote equal protection under the law.

The National Immigration Forum applauds the Committee for holding this hearing on the matter of American border security and urges the Committee to look at border security as part of broad immigration reform that includes an earned path to citizenship.

As the Committee discusses border security, it is important that the discussion not become singularly focused on enforcement. A singular focus on immigration enforcement will not result in workable solutions and gives an appearance of an attempt to prey upon both our legitimate concerns and prejudices in order to score political points.

Enforcement Today

In 2007, the Senate introduced bipartisan immigration reform legislation containing a section establishing a series of border security and other enforcement “triggers” that had to be met before other sections of the bill, including the section pertaining to the legalization of undocumented immigrants, would take effect. While the broad reforms contained in the 2007 legislation did not pass, the government continued an enforcement buildup that was already underway and has now met or surpassed many of the security benchmarks contained in the legislation.

With the now record enforcement that is taking place—at great cost to taxpayers—it will be hard to justify even more costly enforcement. Currently, the entire Southwest border is either “controlled,” “managed,” or “monitored” to some degree. A record 21,370 border patrol agents continue to be stationed at the border, a number that does not include the thousands of agents from other federal agencies, including the Drug Enforcement Agency (DEA), the Bureau of Alcohol, Tobacco, Firearms and Explosives



(ATF), Federal Bureau of Investigations (FBI), and other agencies, supplemented by National Guard troops.

As of February 2012, 651 miles of border fencing have been built out of the 652 miles that the Border Patrol feels is operationally necessary. The fence now covers almost the entire length of the border from California to Texas. There is double fencing in many areas.

Customs and Border Protection now has more than 250 Remote Video Surveillance Systems with day and night cameras deployed on the Southwest border. In addition, the agency relies on 39 Mobile Surveillance Systems, which are truck-mounted infrared cameras and radar. CBP has also sent Mobile Surveillance Systems, Remote Video Surveillance Systems, thermal imaging systems, radiation portal monitors, and license plate readers to the Southwest border. CBP also currently operates three Predator B unmanned aerial drones from an Arizona base and two from a Texas base, providing surveillance coverage of the Southwest border across Arizona, New Mexico, and Texas.

Prior to August 2006, many persons who were apprehended at the border were released pending their immigration hearing. That practice was ended in August 2006, and now nearly all persons crossing the border illegally are detained. Immigration and Customs Enforcement (ICE) is now funded to hold 33,400 individuals in detention at any given time. Over the course of the government's fiscal year 2011, ICE reported that it detained more than 429,000 individuals, an all-time high and 118,000 more than the 311,000 individuals who were detained in 2007. For fiscal year 2012, ICE reported that it had removed nearly 410,000 persons, also a record. That number is approximately 91,000 more than were removed in 2007. To read more about how the 2007 benchmarks have been met please read the Forum's paper "[Immigration Enforcement Today: 2007 Reform Goals Largely Accomplished.](#)"

#### Concerns Regarding Agent Training and Adequate Oversight

All of the efforts described above have demonstrated that the government can, and is capable, of enforcing our immigration laws. Yet, there are still smart, practical enforcement measures that can be adopted to further strengthen border security, including adequate border agent training, adequate resources and infrastructure at U.S. land ports of entry, sufficient oversight mechanisms and procedures to hold agents accountable for misconduct, and effective use of border technology.

The Border Patrol is currently mandated to maintain a minimum of 21,370 agents at any given time, up from 14,923 in fiscal year 2007. While the size of the Border Patrol has expanded, so has the sheer number of complaints against Border Patrol agents. In 2009,



complaints increased 50 percent from the previous year, while the size of the DHS Office of Inspector General (OIG) grew by only 6 percent that same year. Oversight of any agency is crucial to its success, and thus far the OIG has been hampered by a lack of resources needed to meet this growing demand.

#### Concerns Regarding Land Ports of Entry

A 2012 Texas Border Coalition report found that, because enforcement resources have been so focused *between* ports of entry, individuals illegally entering the U.S. through a land port have a 28 percent chance of being apprehended whereas someone attempting to do so between the land ports has a 90 percent probability of being apprehended. This also leaves land ports more susceptible to transnational drug and weapons smuggling. This startling report, coupled with long wait times at ports of entry that hinder the flow of commerce from Mexico, makes clear the need for improvements at our ports of entry.

#### Concerns Regarding Use of Force at the Border

Since 2010, at least a dozen individual media reports have recorded Customs and Border Protection employing excessive use of force. In addition, CBP has seen as many as 232 criminal indictments of its staff for drug-related offenses, fraud, misuse of government resources and theft — all between October 2007 and April 2012. In a December 2012 report titled “Border Security: Additional Actions needed to Strengthen CBP Efforts to Mitigate Risk of Employee Corruption and Misconduct,” the Government Accountability Office found that CBP does not have an integrity strategy, as called for in its Fiscal Year 2009-2014 Strategic Plan. It also found significant cultural resistance among some CBP components in acknowledging the agency’s Internal Affairs authority for overseeing all integrity-related activities. CBP must develop an effective integrity strategy in light of this institutional resistance and its rapid growth and ever growing number of complaints.

CBP relies heavily on technology in order to secure the United States’ borders and ports of entry. However, millions of dollars have been wasted as more money has been poured into border technology without consideration of need or result.

Continued advancements in enforcement will depend on broader reforms to our broken immigration laws so that enforcement resources can target real threats. The American people want better immigration policy. Multiple national polls over the last month show solid support for solutions that include, in addition to reasonable enforcement, creating legal channels for immigrants and establishing tough but fair rules to allow undocumented immigrants to stay and continue to work in the U.S. and eventually earn U.S. citizenship.

We cannot spend or enforce our way to a solution on illegal immigration, and we urge the subcommittee to focus today, and in subsequent hearings, on enacting common-sense reforms that move us forward, not backward.



**STATEMENT OF COLLEEN M. KELLEY  
NATIONAL PRESIDENT  
NATIONAL TREASURY EMPLOYEES UNION**

**ON**

**BORDER SECURITY: MEASURING THE PROGRESS AND  
ADDRESSING THE CHALLENGES**

**BEFORE THE**

**COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS**

**U. S. SENATE**

**March 14, 2013**

Chairman Carper, Ranking Member Coburn, distinguished members of the Committee, thank you for the opportunity to provide this testimony. As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 24,000 Customs and Border Protection (CBP) Officers and trade enforcement specialists who are stationed at 329 land, sea and air ports of entry (POEs) across the United States. CBP employees' mission is to protect the nation's borders at the ports of entry from all threats while facilitating legitimate travel and trade. CBP trade compliance personnel enforce over 400 U.S. trade and tariff laws and regulations in order to ensure a fair and competitive trade environment pursuant to existing international agreements and treaties, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money.

In FY 2012, CBP seized more than 4.2 million pounds of narcotics across the country. In addition, the agency seized more than \$100 million in unreported currency through targeted enforcement operations. At ports of entry in FY 2012, CBP officers arrested nearly 7,700 people wanted for serious crimes, including murder, rape, assault and robbery. Officers also stopped nearly 145,000 inadmissible aliens from entering the U.S. through ports of entry. Inadmissibility grounds included immigration violations, health, criminal, and national security related grounds. Additionally, CBP agriculture specialists conducted more than 1.6 million interceptions of prohibited plant materials, meat, and animal byproducts at ports of entry while also stopping nearly 174,000 potentially dangerous pests.

CBP uniformed and non-uniformed personnel at the air, sea and land ports of entry not only ensure a secure border, but also collect significant revenue through trade compliance and enforcement. CBP is a revenue collection agency, processing more than \$2.3 trillion in trade annually. In FY 2012, CBP processed nearly 25 million cargo containers through the nation's ports of entry, up about 4 percent from the previous year. In addition, CBP conducted nearly 23,000 seizures of goods that violate intellectual property rights, with a total retail value of \$1.2 billion, representing a 14 percent increase in value over FY 2011.

**CBP personnel at the ports of entry are key to achieving and maintaining a secure border and the greatest current threat to border security is sequestration under the Budget Control Act that went into effect on March 1<sup>st</sup>.**

**When sequestration went into effect, Congress cut CBP's discretionary budget by 6.4%--a cut of \$652.56 million in appropriated funds out of a \$9.5 billion budget--\$558.26 of which must come from the CBP Salaries and Expenses (S & E) account.**

**Also, under the sequester, Congress cut CBP's mandatory spending, including user fee accounts, by \$100 million. User fees will continue to be collected from industry to provide travel and trade security, immigration and agriculture inspection services, but CBP will be prohibited from using a portion of these user fees between March 1 and the end of the fiscal year. It is not clear whether the user fees collected will go to the general treasury, but user fees are not a tax, by law they pay for specific services provided by the**

**government. Sequestration nullifies the use of \$100 million of these collected fees to pay for CBP inspectional services.**

**The current CBP sequester plan, in order to cut the S& E account by \$558.26 million and the mandatory spending account by \$100 million, requires all CBP employees to be furloughed up to 14 days during the remainder of FY 2013 or one day per pay period beginning early to mid-April through September 30, resulting in a 10% pay cut for all CBP employees. CBP issued these furlough notices on March 7, 2013. These furloughs will exacerbate an already unsustainable shortage of CBP inspection and enforcement personnel at international air, sea and land ports of entry.**

As Department of Homeland Security (DHS) Secretary Janet Napolitano stated last month before the Senate Appropriations Committee, “sequestration would have significant impacts in our economy, including travel, tourism and trade. Reductions mandated under sequestration would require furloughs and reduced staffing at our Nation’s POEs and airport security checkpoints, increasing wait times for travelers and slowing commerce across the country. Reduced CBP staffing would make four to five hour wait times commonplace and cause the busiest ports to face gridlock situations at peak periods.”

There is no greater roadblock to legitimate trade and travel efficiency than the lack of sufficient staff at the ports of entry. Understaffed ports lead to long delays in our commercial lanes as cargo waits to enter U.S. commerce.

Those delays result in real losses to the U.S. economy. According to a draft report prepared by the Department of Commerce, border delays in 2008 cost the U.S. economy nearly 26,000 jobs and \$6 billion in output, \$1.4 billion in wages, and \$600 million in tax revenues annually. According to the same report, by 2017, average wait times could increase to nearly 100 minutes, costing the U.S. more than 54,000 jobs and \$12 billion in output, \$3 billion in wages and \$1.2 billion in tax revenues. The cumulative loss in output due to border delays over the next ten years is estimated to be \$86 billion.

More than 50 million Americans work for companies that engage in international trade, according to the U.S. Department of the Treasury. If Congress is serious about job creation, then Congress should support enhancing U.S. trade and travel by mitigating wait times at the ports and enhancing trade enforcement by increasing CBP security and commercial operations staffing at the air, sea, and land ports of entry.

In addition, under sequestration, CBP will reduce by \$37.5 million inspectional overtime. Overtime is essential when staffing levels are insufficient to ensure that inspectional duties can be fulfilled, that CBP Officers have sufficient back-up and that wait times are mitigated. In CBP’s own words, “Overtime allows CBP Office of Field Operations to schedule its personnel to cover key shifts with a smaller total personnel number.” The Congressionally-mandated sequester will significantly cut overtime hours and result in longer wait times at the ports of entry.



### **SEQUESTER EFFECTS EXAMPLES IN FLORIDA, TEXAS, AND CALIFORNIA**

Just last month on February 20<sup>th</sup>, DHS Secretary Napolitano, at the request of Florida's Governor Rick Scott, toured the Miami International Airport (MIA) with a delegation from Congress and airline and cruise representatives and other industry stakeholders. Governor Scott noted that insufficient staffing at the new state-of-the-art CBP facility at MIA caused a "bottleneck" for passengers trying to exit customs. "As a result, customers—often numbering well over 1,000 a day—and their baggage are misconnected and must be rebooked on later flights, many leaving the next day."

In a letter to the Secretary, Governor Scott stated, "If this staffing problem is not corrected immediately, it has the potential to damage Florida's international competitiveness. More than 1 million jobs in Florida depend on international trade and investment. The engineering models and recommendations reflected that for optimal operations a minimum of 62 of the 72 lanes must be staffed at peak arrival periods."

Congressman Mario Diaz-Balart said after the tour, "Tourism is the backbone of Florida's economy, and DHS must do more to adequately staff our ports. Our CBP agents are working diligently to protect us from any security threats, illegal substances, and invasive pests and diseases entering the United States, but the lack of staffing is creating long and disorganized lines for travelers, and discouraging travelers from visiting and using South Florida's ports."

Another state with ongoing significant CBP personnel staffing shortages is Texas where more than 420,000 jobs depend on trade with Mexico. Texas leads the nation with 29 international ports of entry. The Houston field office manages 19 of these, including the Port of Houston, George Bush Intercontinental Airport (IAH) and airports at Dallas-Fort Worth, Austin, San Antonio, Midland, Lubbock, Amarillo and also Oklahoma City and Tulsa. Currently IAH wait times are considerably longer than Houston's airport competitors – Dallas and Atlanta. And the City of Houston is considering a proposal to allow international commercial flights at Hobby Airport.

In El Paso, city officials have used the word "crisis" to describe the sometimes hours-long wait times at the local ports of entry and are considering legal action over the environmental effect of international bridge wait times and "CBP's failure to keep those booths open."

Wait times of up to three hours at Los Angeles International Airport (LAX), the nation's third busiest airport moved ten Members of Congress to demand that CBP transfer CBP Officers from other ports of entry to LAX. Despite continuing staffing shortages at LAX, the Bradley terminal is undergoing a \$1.5 billion overhaul that calls for expanding the number of CBP inspection booths to 81.

Also in California, Congress has funded the first phase of a \$583 million upgrade of the Port of San Ysidro. When the first phase is completed in September 2014, there will be 46 inspection booths—up from the current 33. An additional 17 booths would be built in the third phase bringing the total number of booths needing CBP Officer staffing from 33 to 63.

**As noted in these examples, Congress, local jurisdictions and industry stakeholders continue to act as if CBP can staff whatever is built.**

**CBP cannot adequately staff existing port facilities under current funding levels provided by Congress. Proposed port expansions, allowing international flights at airports that are currently not served by international flights, and other new construction to address the growth in international trade and travel, is not possible under the Congressionally-mandated sequester. And, if the sequester, which is intended to be permanent, continues into FY 2014, the current levels of CBP staffing, as set by Congress in statute, will be unsustainable.**

#### **CBP'S ONGOING STAFFING SHORTAGES AT THE POES**

The Congressionally-mandated sequester only exacerbates CBP's ongoing staffing shortage problem. In 2008, the Government Accountability Office (GAO) reported, "At seven of the eight major ports we visited, officers and managers told us that not having sufficient staff contributes to morale problems, fatigue, lack of backup support and safety issues when officers inspect travelers--increasing the potential that terrorists, inadmissible travelers and illicit goods could enter the country." (See GAO-08-219, page 7.)

"Due to staffing shortages, ports of entry rely on overtime to accomplish their inspection responsibilities. Double shifts can result in officer fatigue...officer fatigue caused by excessive overtime negatively affected inspections at ports of entry. On occasion, officers said they are called upon to work 16-hour shifts, spending long stints in primary passenger processing lanes in order to keep lanes open, in part to minimize traveler wait times. Further evidence of fatigue came from officers who said that CBP officers call in sick due to exhaustion, in part to avoid mandatory overtime, which in turn exacerbates the staffing challenges faced by the ports." (See GAO-08-219, page 33.)

Without adequate personnel at secondary, wait times back up and searches are not done to specifications. This is a significant cargo security issue. A full search of one vehicle for counterfeit currency will take two officers on average a minimum of 45 minutes. Frequently, only one CBP Officer is available for this type of search and the search will then take well over an hour.

Finally, NTEU has been told that when wait times in primary inspection become excessive in the opinion of the agency, CBP Officers are instructed to query only one occupant of a vehicle and to suspend COMPEX (Compliance Enforcement Exams) and other automated referral to secondary programs during these periods. This is a significant security issue. Also, when primary processing lanes become backed up, passenger vehicles are diverted to commercial lanes for processing, backing up truck lanes and increasing wait times for cargo inspection.

In October 2009, the Southwest Border Task Force, created by DHS Secretary Janet Napolitano, presented the results of its staffing and resources review in a draft report. This draft

report recommends the “federal government should hire more Customs [and Border Protection] officers.”

The report echoes the finding of the Border-Facilitation Working Group. (The U.S.-Mexico Border Facilitation Working Group was created during the bilateral meeting between President George W. Bush and President Felipe Calderon held in Merida in March 2007.) “In order to more optimally operate the various ports of entry, CBP needs to increase the number of CBP Officers.” According to its own estimate, the lack of staffing for the San Ysidro POE alone is in the “hundreds” and the CBP Officer need at all ports of entry located along the border with Mexico is in the “thousands.” (“CBP: Challenges and Opportunities” a memo prepared by Armand Peschard-Sverdrup for Mexico’s Ministry of the Economy: U.S.-Mexico Border Facilitation Working Group, January 2008, pages 1 and 2.)

Also, when CBP was created, it was given a dual mission of safeguarding our nation’s borders and ports as well as regulating and facilitating international trade. It also collects import duties and enforces U.S. trade laws. In 2005, CBP processed 29 million trade entries and collected \$31.4 billion in revenue. In 2009, CBP collected \$29 billion—a drop of over \$2 billion in revenue collected. Since CBP was established in March 2003, there has been no increase in CBP trade enforcement and compliance personnel and again, the FY 2013 budget proposed no increase in FTEs for CBP trade operations personnel. In effect, there has been a CBP trade operations staffing freeze at March 2003 levels and, as a result, CBP’s revenue function has suffered and duty and fee revenue collected has remained flat.

### **CONCLUSION**

As noted by Members of Congress, industry stakeholders, the traveling public and DHS’s own Advisory Council, for too long, CBP at the POEs has been underfunded and understaffed.

By allowing the sequester to go into effect on March 1, Congress continues to exacerbate staffing shortages at the U.S. ports of entry, and the U.S. economy dependent on international trade and travel, will suffer and U.S. private sector jobs will be lost. Therefore, NTEU strongly urges Congress to end the sequester.

The more than 24,000 CBP employees represented by the NTEU are capable and committed to the varied missions of DHS from border control to the facilitation of legitimate trade and travel. They are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade. These men and women are deserving of more resources and technology to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the Committee on their behalf.



## **BORDER SECURITY: FRONTLINE PERSPECTIVES ON PROGRESS AND REMAINING CHALLENGES**

**WEDNESDAY, APRIL 10, 2013**

U.S. SENATE,  
COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 9:34 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Thomas R. Carper, presiding.

Present: Senators Carper, Levin, Landrieu, Baldwin, Tester, Coburn, McCain, Johnson, and Ayotte.

### **OPENING STATEMENT OF CHAIRMAN CARPER**

Chairman CARPER. Well, I have three glasses of water here set up before me. Somebody must think this is going to be a long hearing, or at least that I am going to need a lot of nourishment.

But I just want to bring us to order. It is not a very unruly group, but we are grateful for your presence here and thanks for your willingness to testify and to respond to the questions we have.

Dr. Coburn and I had a breakfast meeting with Secretary Napolitano. He had to run over to the House for a little bit for a meeting over there and he will be joining us probably during the course of your testimonies.

I think this is the second in a series of hearings that our Committee is holding to review the progress that has been made in securing our borders and to identify what challenges remain to be addressed.

Normally, I go home at night to Delaware. I stayed down to have a meeting last night and an early breakfast meeting this morning, as I mentioned, and so I stayed down last night. I like to start most of my days by working out. Usually, it is in the YMCA back home or I run back in Delaware before I catch the train, but this morning, I stopped off at the Senate gym, the little Senate gym that we have. It seems like most of the Senators that have been working on immigration reform were there and trying to figure out, are our borders more secure and how do we measure that.

So today's hearing is probably even more germane than you think. It is something we talked about a lot over breakfast this morning with the Secretary and Dr. Coburn, as well.

In the last 2 months, I have had the real privilege of visiting with some of our frontline border security personnel. Most recently

along our Northern borders—it turns out I am a huge Detroit Tigers fan, and for no really good reason, but to be in Detroit during the first week of baseball season—and to spend some time with Senator Levin up along the water border with Canada, which, as you know, is enormous. But I was privileged to go with Senator McCain down along the border between Arizona and Mexico and to spend some time down there with Congressman McCaul and Secretary Napolitano.

And during my trip to Arizona in February, I saw a border that appears to me to be—and to a lot of other people—more secure than it has ever been, or has been in a long time—by any measure that we have available to us at this moment. In addition, I spoke with, along with Senator McCain, a bunch of his local mayors and law enforcement officers who told me that the crime rates in their communities were at the lowest level in decades and were continuing to decline.

I saw parts of the border that were overrun with unauthorized immigration as recently as 2006, when the Border Patrol agents I met with told me they used to arrest more than 1,000 people every single day. And today, those agents tell me that they have a busy day if they arrest even 50 people. That is a remarkable development and clearly a significant change for the better. It is also consistent with the dramatic reductions that we see nationwide, in the United States, of people trying to cross our borders illegally, which have reached their lowest level since the early 1970s.

I also saw advanced surveillance technology, such as the cameras and radars that we are deploying to serve as force multipliers for our folks on the ground. The men and women I spoke with told me that these technologies help them quickly pinpoint where people are trying to cross the border illegally so that their agents can be deployed in time to make an arrest or turn them back.

We heard about a remarkable new radar being tested on a drone called the VADER, that is providing the Border Patrol with an unprecedented view of the people coming across the border. Another new radar system being tested allows agents to detect physical changes to the ground, such as footsteps, to identify where illegal traffic is heading.

And while some of these technologies are expensive, I also saw an inexpensive and versatile aircraft called a C-206, a small plane, which is easy to fly and maintain. It can be used to provide an efficient surveillance platform for agents on the ground. We also heard about inexpensive blimps or dirigibles that can be deployed to help agents detect illegal activities.

What I have seen gives me great hope that we have made tangible and measurable gains in securing our Nation's borders over the past decade and have a good sense of what we need to do to build on that progress. We have to rely on intelligence and advanced technology, to identify when and where the threats are crossing our borders and to empower the frontline officers on the ground.

Despite the gains that we have made, we still face significant challenges. First is the fact that arrests cannot be the only metric available to measure the performance of our efforts at the border. Without knowing how many people are actually trying to cross the

border, we will never know how effective our efforts truly are to date. That is a hard thing to come up with; is it not?

Our witnesses at the Committee's first border security hearing, while noting the significant progress that has been made over the years in securing our borders, also pointed out the Department of Homeland Security (DHS) keeps a variety of internal statistics on illegal activities at and between the ports of entry that it does not make public. I just do not think that is acceptable.

It is critical that the Department of Homeland Security do a better job of educating the public and Congress on how it measures its effectiveness at the borders, and it must include estimates for the number of people trying to cross the border without proper documentation.

Another one of the challenges that most concerns me is the growing sophistication of the smuggling networks operating along our borders, particularly with respect to illegal drugs. Drug cartels are using tunnels, ultralight aircraft, and even submarines to avoid detection along our borders and along our coasts. They place spotters on the tops of our mountains to help them avoid law enforcement. On top of our mountains. It blows my mind. I have said this to Senator McCain—that we have these folks out there sitting on our mountains, on our mountaintops, and we somehow are unable to take them out. If they are sitting on a mountaintop in Iraq, I think we would have taken them out. And one of the things we can talk about here today is our inability to replicate that kind of success here.

There are troubling links between organized crime in Mexico and terrorist groups overseas.

In order to meet these new challenges and to continue to improve our security efforts, we have to evolve our approach to securing our borders. We have to become smarter in how we deploy our limited resources and focus on deploying these force multipliers that we witnessed in Arizona.

In addition, it is important to note that while most of the security debate is focused on the issues between our ports of entry, much of the illegal traffic comes through our actual ports. Since 9/11, we have made tremendous improvements in screening people who are attempting to enter our country. Today, all travelers must present a secure ID at the border. They are automatically screened against all of our government's law enforcement, immigration, and terrorism databases in order to ensure that dangerous people are not allowed to enter our country.

But we continue to be faced with significant infrastructure challenges. After declining after 9/11, travel and trade have ramped up in recent years, and that is a good thing. International arrivals to the United States have been increasing by some 6 percent a year over the past several years. But staffing at our air, land, and sea ports has not kept up. Our ports of entry need to be modernized, and staffed appropriately, to keep pace with these increases in travel and trade that we are seeing, which is encouraging.

We also need to make our ports of entry work more efficiently, so we can focus our inspections on potential threats rather than on legitimate travelers. This includes expanding trusted traveler membership, creating public-private partnerships, and working

with the public to better identify wrong-doers. It could also include modernizing our fee so that importers and travelers are fully paying for the costs of inspecting travelers and goods. We expect to hear from the Administration later this morning on that subject when the President's budget is released.

Last, as organized crime continues to evolve and become more sophisticated, we need our criminal investigators to do the same. We must continue to focus our efforts working in integrated multi-agency teams, such as the Border Enforcement Security Task Forces. These task forces allow investigators to collaborate across agency lines, sharing information about known and suspected smugglers in order to generate intelligence about their operations that can be used to attack criminal networks.

There is no doubt that we have more work to do, but I believe that any honest assessment of where things stand today will conclude that we have made tremendous gains in securing our border over the past decade. As the Senate begins to consider comprehensive immigration reform this month, I believe that the conversation will be different from the ones we had in 2006. In 2006, the perception that the border was out of control was grounded in historically high rates of illegal immigration. Today, illegal immigration is at historic lows, and as I have seen firsthand in Arizona, more recently in Michigan this last week, and in California a couple of years ago, the unprecedented taxpayer-funded investments that we have made to secure our borders are working.

In fact, yesterday, I met with the former Commissioner of Customs and Border Protection, Alan Bersin, and he told me that, in his views, the increase in border security has been one of the greatest bipartisan accomplishments over the past 25 years because it has spanned three Administrations, Presidents from both parties, and has had strong support from members, both Democrat and Republican. And frankly, I agree with him.

I support the efforts to modernize our immigration laws. I applaud the efforts, particularly of Senator McCain and others that he is working with, to make the United States more competitive and more secure in the 21st Century. I look forward to working with my colleagues to ensure that any additional investments made to continue to secure our borders are targeted to the kinds of force multipliers that are proven to be effective, and that represent good investment.

Normally, I would turn it over to Dr. Coburn, who, as I said earlier, is over in the House meeting with some folks. He will be here shortly. Normally, I do not turn to other Members of the Committee to make opening statements. We have a couple of key players here, and Senator McCain spent a whole lot of time, to good effect, working with seven of our colleagues to try to find a path forward on immigration reform. He was good enough to take me down along the border. John, if there is something you would like to say before, I maybe ask the Chairman of our appropriations Subcommittee who is here today? John, please feel free to go ahead.

#### **OPENING STATEMENT OF SENATOR MCCAIN**

Senator MCCAIN. Thank you, Mr. Chairman. I think your opening statement covered the issue. I welcome the witnesses and I look



forward to some interesting comments and testimony on this issue. It comes at a very opportune time, as we are hopefully concluding our negotiations.

And I want to thank you, Mr. Chairman, for taking the time from your schedule to come and visit our border and the people who live there. I know all of us are appreciative of your continued intense interest in this issue.

Chairman CARPER. Happy to be your partner.

Senator Landrieu, anything you would like to add? Please.

#### **OPENING STATEMENT OF SENATOR LANDRIEU**

Senator LANDRIEU. Yes. Mr. Chairman, again, thank you for taking the leadership to do this very important overview as we enter into one of the most important debates for our Nation. And I really particularly want to underscore the importance of understanding the financial requirements that will be behind such an important undertaking.

We have in the last 10 years almost tripled from—well, more than tripled, from \$1 billion to \$3.5 billion, the resources going in to protect the borders of Arizona, California, Texas, I mean, borders of our country, but really impacting these States primarily along the Mexican border. I am sure that we can find some resources to do more, but Mr. Chairman, it has been a real push in our budget to actually fund the outline of what this Committee and others put forward. So it is going to be a real challenge for us in these very tough times, so I just wanted to let people know we are doing the best we can in a \$42 billion budget, but there are lots of pulls and pushes on the Homeland Security budget right now.

Thank you.

Chairman CARPER. Thank you, Madam Chairman.

I think we are lucky that Senator Landrieu serves on this Committee and also is the principal appropriator. It has the potential for a great partnership and I think this potential is going to be fully realized, and one that we all can be part of, as well.

I want to say good morning to Senator Tester. How are you, Jon.

Senator TESTER. Very well.

Chairman CARPER. Nice to see you, partner.

I am going to go through just a brief introduction of our witnesses. I am going to stumble on the first last name. Is it McAleenan? How do you pronounce it?

Mr. MCALEENAN. That is perfect, Chairman.

Chairman CARPER. All right. It is not often I am perfect.

Our first witness is Kevin McAleenan, Acting Deputy Commissioner of U.S. Customs and Border Protection (CBP). In this capacity, the Deputy Commissioner is the chief operating official of Customs and Border Protection. He looks pretty young to have that kind of responsibility. Previously, Mr. McAleenan served as the Acting Assistant Commissioner of CBP's Office of Field Operations, leading the agency's port security and facilitation operations. Welcome.

Our second witness is Michael Fisher. Mr. Fisher is the Chief of the U.S. Border Patrol, and in this position, Chief Fisher has responsibility for planning, coordinating, and directing enforcement efforts to secure our Nation's borders. Prior to his current position,

Chief Fisher served in a number of leadership positions within the Border Patrol. Chief Fisher joined the Border Patrol as a child, in 1987.

Our third witness is Randolph Alles? How is it pronounced?

Mr. ALLES. Yes, sir. Close enough.

Chairman CARPER. OK. Assistant Commissioner for U.S. Customs and Border Protection, Office of Air and Marine. Mr. Alles—do you really pronounce it that way? How do you really pronounce it?

Mr. ALLES. “Alles,” if you want to be really technical.

Chairman CARPER. “Alles”?

Mr. ALLES. “Alles,” long A.

Chairman CARPER. OK. Good. Thank you. Mr. Alles joined the Office of Air and Marine as the Deputy Assistant Commissioner in March 2012. And before joining CBP, Mr. Alles served in the U.S. Marine Corps for 35 years, retiring in 2011 as a Major General. Semper Fi. Ready to go. As we say in the Navy, Bravo Zulu.

Mr. Alles was designated as a naval aviator in 1978 and attained more than 5,000 flight hours—that is pretty impressive, John—more than 5,000 flight hours in multiple aircraft types. What kind of aircraft?

Mr. ALLES. A-4, F-18, F-4, sir.

Chairman CARPER. All right. Including over 300 combat hours. Did you serve in Southeast Asia?

Mr. ALLES. No, sir. Before my time. Iraq.

Chairman CARPER. OK. Thank you. Thanks for all that service, too.

Our final witness is James A. Dinkins, Executive Associate Director of Homeland Security Investigations for the U.S. Immigration and Customs Enforcement (ICE). As the Director, Mr. Dinkins has direct oversight of ICE’s investigative and enforcement initiatives and operations. Prior to assuming his current position, Mr. Dinkins held a number of key leadership positions within ICE, including Special Agent in Charge for Washington, D.C. and Baltimore. Mr. Dinkins began his law enforcement career with the U.S. Customs Service in 1986.

Your entire statements will be made part of the record. Feel free to summarize. I will ask you to keep your statements to about 7 minutes, and if you go beyond that, I may have to rein you in. Your full statements will be made part of the record and once we finish, we will do some questions. We are delighted that you are here, grateful for your service, encouraged by the progress that is being made. Now, we can always do better, and part of our job is to help you and the folks that you lead to do better. Welcome. Please proceed.

**TESTIMONY OF KEVIN K. MCALEENAN,<sup>1</sup> ACTING DEPUTY COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. MCALEENAN. Thank you, and good morning, Chairman Carper and distinguished Members of the Committee. Thank you for the opportunity to be here today to discuss these important issues

<sup>1</sup> The prepared statement of Mr. McAleenan appears in the Appendix on page 176.

with you. We appreciate the Committee's leadership and commitment to ensuring the security of the American people and look forward to discussing some of the progress we have made that you outlined in securing the border, how we measure that progress, and the key areas we need to continue to address.

I am representing CBP's Office of Field Operations today, and we carry out our border security activities in all 50 States and 330 ports of entry and globally at 70 locations in 40 countries abroad. Our priority mission is preventing terrorists and terrorist weapons from entering the country, while we also interdict inadmissible persons, illicit drugs, agricultural pests and animal diseases, unsafe imports, and goods that violate trade laws.

At our ports of entry, security is defined not only by our ability to prevent dangerous goods and people from entering the country, but also how well we support economic security through the expeditious movement of travelers and cargo. In other words, at our ports of entry, a secure border is a well managed border where mission risks are effectively identified and addressed and legitimate trade and travel is expedited.

With this Committee's support, CBP is more capable than ever before, but we remain committed to continuous improvement and we strive to develop programs and operations to make our border security efforts increasingly effective. As part of that, the process of measuring and addressing our progress is a constant focus.

CBP uses a number of different types of metrics to assess our performance in managing our security risk and facilitation responsibilities. These metrics are both qualitative and quantitative, include both effectiveness and efficiency measures, and are assessed at the national, programmatic, regional, and port levels. We use these key indicators to assess our performance and evaluate trends and developments over time.

It is important to emphasize that there is no single number or target level that can effectively capture the full scope of our security or facilitation efforts at ports of entry. Instead, there are a series of important indicators that we use to assess and refine our operations.

Qualitatively, we look at measures we have in place to address specific risks, whether they are comprehensive, and whether they can be improved. Quantitatively, we use random baseline examinations of both people and goods to assess how effective our efforts to identify and address threats are and we use efficiency measures to determine whether our security operations are properly targeted.

Last, at the ports, we use facilitation measures, such as traveler and vehicle wait times, to assess whether we are pursuing our security requirements and deploying our resources in a manner that expeditiously moves legitimate cross-border traffic.

In this vein, I would like to highlight some of the progress we have made in some key mission areas.

In our anti-terrorism mission, our priority mission, we measure our success by how effectively we identify potential risks and how early we take action to address them. In the last fiscal year, through our National Targeting Center, overseas programs, in coordination with the interagency, international, and private sector partners, CBP prevented 4,200 inadmissible and high-risk travelers

from boarding flights to the United States, almost a tenfold increase from 2009, and identified and mitigated risks in over 100,000 ocean cargo containers and 2,000 air cargo shipments before they could be laden on a vessel or loaded on an aircraft destined for the United States.

Similarly, our ability to identify and deny admission to inadmissible persons seeking entry into the United States is a core mission where we have seen marked improvement with the implementation of new technology solutions. United States Visitor and Immigration Status Indicator Technology (US VISIT) and the Western Hemisphere Travel Initiative have allowed us to reduce the number of acceptable documents and enhance biographic and biometric checks, serving as a significant deterrent to attempted illegal entries and the use of fraudulent documents. And overall, at the ports of entry, our arrests have increased while attempts by inadmissibles to enter have diminished.

With regard to our counterdrug efforts, we are continually assessing how our border security activities have challenged or changed drug smugglers' ability to move illicit drugs into the United States through ports of entry. The significant increase in deployment of large-scale non-intrusive inspection equipment over the past 5 years has driven improvements in the effectiveness of our examinations. As a result, smugglers have changed their tactics, moving to smaller loads and much deeper and more sophisticated concealment methods, and some of the avoidance measures that you outlined, Chairman. Accordingly, larger marijuana seizures are trending down, while hard narcotic seizures have increased significantly, especially heroin and methamphetamine.

We have also enhanced our efforts in both agriculture and trade protection to focus on those threats that present the greatest risk to the U.S. economy and public. We measure our success in this mission area using three key types of metrics: First, our total examinations; second, the interceptions and seizures they produce; and third, our effectiveness rate in undertaking those exams. All three show positive trends.

In 2009 and 2010, we focused our agriculture protection efforts on increasing interceptions of the highest-risk agricultural pests that, if undetected, could result in millions of dollars of economic damage to U.S. agriculture. As a result, we have seen a more than 400 percent increase in interceptions of these most serious pests.

These core border security missions are pursued in the context of significant growth in international trade and travel. Last year, CBP welcomed more than 350 million travelers at our air, land, and sea ports of entry and processed 25.3 million cargo containers and over 100 million air cargo shipments, with a trade value of \$2.3 trillion. Air travel is up more than 12 percent over the last 3 years and is expected to grow at 4 percent annually over the next several. Land border traffic is also increasing and our trade volumes are at record levels in all environments and continuing to grow.

As a result, we have seen increased wait times in some environments. Securing these growing traffic levels without impeding them is our core challenge and we are tackling it head on through a series of innovative efforts to deploy new technology and transform

our business processes. We are increasing enrollment in our Trusted Traveler Programs, like Global Entry, automated anachronistic paper forms, and deploying mobile technology to support our officers where the work is happening. We envision border processes that are seamless, paperless, and traveler directed, and we are pursuing them.

In sum, we have increased our mission effectiveness and security across all threats and environments while facing increasing demands from growing passenger and trade volume, and we continue to seek ways to improve.

Chairman Carper and Members of the Committee, thank you for this opportunity to testify. I look forward to answering your questions.

Chairman CARPER. OK. Thanks so much for that statement and for joining us today.

Mr. Fisher, please proceed.

**TESTIMONY OF MICHAEL J. FISHER,<sup>1</sup> CHIEF, U.S. BORDER PATROL, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. FISHER. Chairman Carper and other distinguished Members of the Committee, it is indeed an honor to appear before you today to discuss progress and remaining challenges facing the men and women of the United States Border Patrol.

In assessing border security progress, one only needs to travel the border and talk with front-line agents to witness and fully appreciate the investments made over the last decade or two. New roads and access to the immediate border have increased. Numerous technological advancements, both in static and mobile systems, have provided critical situational awareness and intelligence collection capabilities, while at the same time supporting agents during ground operations. Primary fence and vehicle barricades have fundamentally changed the way smuggling organizations operate, and aerial platforms with advanced technology have substantially increased the way we deploy on the ground and have led to increased effectiveness throughout the corridors along the Southwest border.

Thanks in large part to this Committee's support, substantial investment in personnel, technology, and infrastructure along the Southwest border during the past several years has led to the reduction of illegal cross-border activity. This reduction in traffic is now enabling us to better respond to threats and managing risk.

Over the past 2 years, advanced analytics and data assessments produced programs such as the Consequence Delivery System (CDS). CDS has allowed us to reduce the percentage of apprehensions that result in a voluntary return, from 41 percent in 2011 to 22 percent in 2012. Moreover, the Consequence Delivery System has contributed to the reduction in the overall rate of recidivism, from a 6-year average of 24 percent to 12 percent today.

But as I have articulated in prior testimony, I will work to reduce the likelihood of attack against the Nation and to provide safety and security to our citizens as an ongoing mission. Our focus now is to expand our operation by taking an integrated approach

<sup>1</sup> The prepared statement of Mr. Fisher appears in the Appendix on page 176.

that includes our partners at the Federal, State, local, and Tribal level, applying a risk-based strategy while moving toward a mobile and flexible workforce that can rapidly respond to emerging threats.

Our challenges are many, not the least of which is our ongoing requirement for information and intelligence, which provides front-line agents critical insights about those that would seek illegal entry into the country. In addition, detection capability continues to be a critical need in our implementation plan, detection to queue response to an immediate threat and detection to provide strategic situational awareness.

I am often asked the question, when will the border be secure? My general response is when there are no more dangerous people seeking entry into the country to do us harm. The extent to which the border is secure has more to do with known and evolving threats and our ability to respond to those threats and less to do with fluctuations in things like apprehension numbers.

Although our progress has historically been described in terms of technology and infrastructure enhancements, the true value of our collective achievement rests with the agents and mission support personnel. Their selfless sacrifice and commitment to excellence exhibited every day nationwide is unmatched in law enforcement. What our agents continue to achieve in the face of adversity is no less than exemplary. I am proud to represent them here today.

I look forward to working with the Committee to identify measures that adequately assess the state of the border and explain the return on the investment for the American people. Thank you, sir.

Chairman CARPER. Thank you, Mr. Fisher.

General Alles, please proceed. Welcome.

**TESTIMONY OF RANDOLPH D. ALLES,<sup>1</sup> ASSISTANT COMMISSIONER, OFFICE OF AIR AND MARINE, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. ALLES. Thank you, sir. Good morning, Chairman Carper and distinguished Members of the Committee. It is an honor to appear before you today with my colleagues to discuss the critical role of U.S. Customs and Border Protection in securing our Nation's borders. I appreciate the Committee's leadership and commitment to ensuring the security of the American people.

The Office of Air and Marine (OAM), as I will refer to them during my comments here, is the world's largest aviation and maritime law enforcement organization. It is a critical component of CBP's layered enforcement strategy for border security. We are composed of 1,200 Federal agents, 267 aircraft, and 289 marine vessels, and we operate from 84 locations throughout the United States.

OAM protects the American people and the Nation's critical infrastructure through the coordinated use of integrated air and marine forces to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illegal drugs, and other contraband toward or across the land and sea borders of the United States. At the borders, OAM's tactical support of CBP's

<sup>1</sup>The prepared statement of Mr. Alles appears in the Appendix on page 176.

antiterrorism and border security mission includes intercepting people and contraband crossing the land borders, intercepting aircraft and transportation vessels. To accomplish this, OAM develops information and partners with the Federal, State, local, and Tribal law enforcement agencies to ensure our assets are in the right place at the right time and to effect a successful resolution to stopping illegal activities.

Additionally, OAM utilizes its unique air and marine capabilities to provide support for law enforcement along with disaster recovery, emergency response operations. Over the past years, and consistent with our air and marine strategic plan, OAM has delivered an advanced array of new and upgraded aviation assets, some of which you saw, extremely capable of sensors, information integration and distribution capabilities in a variety of marine vessels.

OAM recently delivered its seventh P-3 Orion aircraft with an additional 18 to 20 years of service life at a fraction of the cost of the new aircraft. Additionally, over the past seven years, we have added 70 new or upgraded medium-lift helicopters, light- or medium-lift helicopters, 18 new or upgraded fixed-wing aircraft, 10 Predator B unmanned aerial systems, 56 interceptor and riverine-type marine vessels, and other maritime and aviation sensors. We also stripped the first Processing, Exploitation, and Dissemination (PED) cell, at the Air and Marine Operations Center in California and North Dakota.

Two of our most impressive recent capabilities have been the Multi-role Enforcement Aircraft (MEA) and broad area electronic sensors, which were referred to by the Chairman at the start of this session. The MEA provides CBP with a single aircraft to support border security missions and medium-range maritime patrol missions. The broad area electronic sensors, termed VADER, provide unparalleled situational awareness across the land borders and give Border agents near real-time actual information without the limitations of ground radars or optical sensors.

Another key component of our security capabilities is the unmanned aircraft systems, the Predator. They provide critical aerial surveillance to personnel on the ground. We own 10 of those systems and its maritime variant, the Guardian, which composes 3 of the 10 systems. The Predator can monitor large areas of land efficiently, enhance situational awareness, and increase officer safety. They are particularly useful for detecting and targeting locations susceptible to border incursions.

From June to July 2012, we deployed one of our assets to the Dominican Republic, flew 237 hours with that unmanned aerial vehicle (UAV), and we netted a total of 3,900 pounds of cocaine valued at over \$300 million street value.

Recently, and in conjunction with local authorities, OAM assisted California State and local enforcement in their search for Christopher Dorner, a former L.A. police officer who was suspected in multiple homicides and eluded capture for more than a week. On February 12, our riverside air unit launched an AS-350 helicopter to assist local authorities in their search after they traced Dorner to the San Bernadino Mountains, where he barricaded himself inside a cabin. We launched a PC-12 Pilatus aircraft to provide ground support. An AS-350 helicopter delivered one of Mr.

Dinkins' agents, an ICE agent, to the command and control center along with equipment that allowed the Special Weapons and Tactics (SWAT) commander to see the video feed from the PC-12, very helpful to that apprehension.

Mr. Chairman, I know you are familiar with our P-3 aircraft and its effectiveness. CBP P-3 aircraft have been instrumental in reducing the flow of contraband from reaching the United States by detecting suspect vessels while they are still thousands of miles away from the U.S. border. In fiscal year 2012, P-3 crews were involved in the seizure of more than 117,000 pounds of cocaine valued at \$8.8 billion. And in the first quarter of this year, they have been involved in the seizure of over \$2.4 billion of cocaine.

Working in conjunction with aviation assets, OAM's coastal interceptor vessels operate in offshore coastal waters to combat maritime smuggling and protect U.S. ports from acts of terrorism. These interceptor vessels are the most powerful vessels used in law enforcement and are an integral part of OAM's efforts to stop maritime smuggling.

Further integrating security efforts, our Air and Marine Operations Center utilizes surveillance capabilities of Federal and international partners to provide air domain awareness for agents at the border and within the interior of the United States.

Because of the continual support of Congress, OAM has been a significant contributor to CBP's progress in securing the border. OAM will continue to transform our aviation and maritime fleet to enhance our detection, interdiction capabilities, and work with our international and Federal partners to combat the risk that exists today and be prepared for tomorrow.

Chairman Carper and distinguished Members, thank you for this opportunity to discuss our role and CBP's role in securing our borders. I look forward to answering your questions.

Chairman CARPER. General Alles, thank you so much for that testimony.

I am tempted to say, the P-3, the mighty P-3, as my sons used to call it, is amazing. It was not a new airplane when I was starting to fly. It is amazing that they are still going. It served in Iraq, Gulf drug interdiction for years down in the Caribbean, and now in this role. It is really pretty amazing. And, I presume, cost effective. That is good. Mr. Dinkins.

**TESTIMONY OF JAMES A. DINKINS,<sup>1</sup> EXECUTIVE ASSOCIATE DIRECTOR, HOMELAND SECURITY INVESTIGATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. DINKINS. Good morning, Chairman Carper and distinguished Members of the Committee. Thank you for the opportunity to be here today to discuss the significant contributions ICE has made over the past decade in securing the border and our investigative work to disrupt and dismantle transnational criminal organizations.

Over 26 years ago, I began my career in the Federal Government, and since that time, I have seen some watershed moments

<sup>1</sup> The prepared statement of Mr. Dinkins appears in the Appendix on page 189.



in border security, but as we all know, none more defining than 9/11. At that moment in time, when the plane hit the World Trade Center at 8:46 a.m., border security changed forever. At that moment in time, I was a Supervisory Special Agent with U.S. Customs in Detroit, Michigan. My office sat just blocks away from the U.S.-Canadian border and there was a complete new urgency to securing our Northern border as well as our Southern border.

Since that time, and with the creation of the Department of Homeland Security, we have made great strides and realized considerable enforcement achievements. For example, over the past 3 years, ICE Homeland Security Investigations (HSI), has achieved a record number of criminal arrests, with an increase of nearly 25 percent in fiscal year 2012 over fiscal year 2010.

As the Department's principal investigative agency, and as Customs and Border Protection's investigative arm, ICE Homeland Security Investigations has deployed nearly 50 percent of our resources to the Northern and Southern border, with the remaining resources strategically placed along our coastal borders and near ports of entry throughout the United States. In addition, we have special agents assigned to 75 offices in 48 countries around the globe.

This global footprint is imperative to address the entire criminal continuum of cross-border crimes that we face in today's global society. This includes at the border where criminal organizations, as you have heard, seek to smuggle people, contraband, and money into and out of the United States—as well as throughout the United States where the criminal organizations distribute their contraband and earn significant profits—and then, finally, internationally, where many of the criminal organizations base their command and control structures.

In 2006, we made a great step forward, as you had mentioned in your remarks, with establishing the first Border Enforcement Security Task Force (BEST). Today, we have 35 BESTs located across 16 States and in Puerto Rico which leverage over 765 Federal, State, local, Tribal, and international law enforcement officers representing over 100 different agencies.

To assist in addressing the threats abroad, we also created Transnational Criminal Investigative Units (TCIUs), which are bilateral, multi-disciplined investigative units comprised of vetted international law enforcement partners. Currently, we have 12 units operating in 10 countries that are dedicated to investigating the foreign-based criminal organizations who threaten our Nation.

In an effort to prioritize our investigations, with the increased resources that we have been granted over the last few years, ICE Homeland Security Investigations launched the Significant Case Review Process (SCR), in fiscal year 2011. This process focuses our investigative resources to disrupt and dismantle the most prolific criminal organizations. As a result of our work, over 175 of the most dangerous individuals and transnational criminal organizations have been disrupted or completely dismantled. These are criminal organizations that, at one time, had the capacity to smuggle thousands of illegal aliens and immigrants, tons of drugs, launder millions of proceeds, and smuggle weapons into and out of the United States, but no more.

This past year, ICE also developed the Illicit Pathways Attack Strategy (IPAS). IPAS is a whole government approach, both domestically and internationally, to address not only the most significant criminal organizations, but also the smuggling pathways, and the methods they use. They use these methods and pathways for a reason, and we take a whole government approach to identify what is the underlying reason they are utilizing and exploiting that pathway. Experience has shown that if we simply tried to disrupt criminal activity by focusing law enforcement efforts in one area, criminal organizations will quickly adapt and shift to another area or method. The goal of our criminal investigations is to not only stop the individual criminals, but also to disrupt and dismantle the entire criminal enterprise and do everything we can to mitigate and eliminate the vulnerabilities they seek to exploit.

Thank you again for the opportunity to be here. There is no question, as you mentioned, that we have collectively made great strides and progress in enhancing border security over the past decade, and it would be my pleasure to answer any questions.

Chairman CARPER. Mr. Dinkins, thanks for that testimony, and again to all of you for your testimonies and for joining us today.

I am going to ask some questions and then kick it over to Senator McCain, Senator Tester, Senator Landrieu, Senator Ayotte, Senator Johnson. Welcome. We are glad you all are able to join us today.

I am going to telegraph a pitch and then I am going to ask somebody, maybe Mr. Fisher, to go over and talk us through some of these charts. But one of the questions I am going to ask is, do you think the borders are more secure, yes or no? And I am going to ask, to the extent that this is still a work in progress, and while improvements have been made, what are the one or two additional critical things that we need to do? What do we need to do more of? What do we need to do less of? Just be very specific, if you will, on that. And then we will drill down from there.

But why do we not start with the charts?<sup>1</sup> Mr. Fisher, would you just walk us through this first chart? It looks a little bit like the U.S.-Mexican border.

Mr. FISHER. Yes, Chairman. Thank you. I will be happy to. And I will be succinct and as brief as possible. If you need further clarification, please stop me while I am explaining it.

Chairman CARPER. OK.

Mr. FISHER. The first chart is, as you identified, the Southwest border. It is a comparative on apprehensions. So if you look at the very top, in the blue numbers are the apprehension numbers by sectors, and as you recall, the Southwest border is broken down into nine sectors. And so the blue numbers represent the apprehensions at the end of fiscal year 2012 corresponding to each one of those sectors.

Below that, in the lower numbers in red are the apprehension numbers at a point in time of the highest apprehension in that corresponding sector. And as a reference, if you look just above the red number, you will see a black number, which is the year in which what we call the high-water mark was established. So, generally

<sup>1</sup> The photo submitted by Mr. Fisher appears in the Appendix on page 185.

what we do is we compare apprehensions with the previous year. That is kind of one of the default metrics that we typically report, both in our Government Performance and Results Act (GPRA) measures and others, and—

Chairman CARPER. So what you are saying is apprehensions are generally down along the border, down substantially compared to where they were how many years ago? A half-dozen? Twelve?

Mr. FISHER. Yes. The earliest one recorded is in 1992 in San Diego.

Chairman CARPER. All right.

Mr. FISHER. So from 1992 through, it looks like about 2005, during that period of time, the Border Patrol historically was averaging millions of apprehensions per year.

Chairman CARPER. OK.

Mr. FISHER. And so what we look at now in the comparative in 2012, in each one of our sectors, we are seeing continued decreased activity level, to include apprehensions.

Chairman CARPER. Yes. One could argue the reason why the apprehensions are going down is because we are not as effective in apprehending people. But having been there with Senator McCain and others, actually, we are a whole lot better at doing the job. They are far more effective on the ground, in the air, in the water. So it is sort of counterintuitive that we would use apprehensions. I think we struggle with this as a metric—that is the way we are going to measure progress and making the border more secure. How do you respond to that? Why is this one of the key measures for us to use? I know there are others, but why is this one of the key measures to use?

Mr. FISHER. Right, and Mr. Chairman, I agree with you. As a matter of fact, if we just talk about apprehensions, I think it is misleading, because whether it goes up or it goes down, one could make the case that we are doing a better job. And that was about 3 years ago, we looked at apprehensions only as the start of metrics that we would try to describe the State at the border at any given point in time.

What apprehensions does give us, and the reason why we like using them and have historically used them, is because it is a solid number. Those represent people that we have apprehended. So we can show you their biometrics. We can tell you who they are. We can give a whole host of demographics, where they were from. And so we are very confident about that number.

But it just does not tell the whole story in terms of what is happening. It is a good starting spot, but not the end.

Chairman CARPER. Good. And as time goes by, do we have the ability, as we apprehend people, to know if they are being apprehended for the second, third, fourth time? Do we have the ability to do that with some certainty?

Mr. FISHER. We do, Mr. Chairman.

Chairman CARPER. And what are we seeing in terms of those numbers as a percentage of those that are being apprehended?

Mr. FISHER. Well, as a percentage, there are less people that are being apprehended multiple times.

Chairman CARPER. OK.

Mr. FISHER. So as a general statement, we can do that, and we can do that through their fingerprint identification number, which is a unique identifier based on biometrics. We are able to do a lot more analytical work in terms of who these people are, where they are showing up, either at the ports of entry, between the ports of entry, and we can study that over time, not just the individuals, but it helps inform our agents in terms of the networks that are operating these smuggling routes and it gives us a lot of information about their capabilities and their vulnerabilities.

Chairman CARPER. All right. Good. Do you have anything else you want to say on this chart before we look at some of the photos?

Mr. FISHER. No, Mr. Chairman.

Chairman CARPER. OK. Can somebody help us with the charts, please. Thank you. And I see some photos.<sup>1</sup> A picture is worth a thousand words. What do we have here? Can we put that one up? Very good. Just put it up on the end, if you would. Thanks a lot. And what are we looking at here?

Mr. FISHER. This is a before and after photo of an area within the Tucson sector in the State of Arizona. We have, over the last few years captured, and we have asked the field to send us, literally hundreds of photos which help us understand, not just within our headquarters, but certainly those that, unlike yourself, would not have the opportunity to go to the border or perhaps have not been to the border recently, in the late 1990s or early 2000s.

And the picture up top was taken in 2006. As you can see, there is a lot of debris. Typically, what was happening, you would have thousands of people on any given shift going across the desert. In some areas, it took them hours. In some areas, it took them days to get from the point of entry across the border to either a stash house or into a vehicle. And along the way, in a typical area like this, would be what we call a load-out area. So as they were getting ready to transition into a vehicle, they would dump a lot of either old clothes and water bottles, things that they would take during their trip, and just leave it in the desert and continue on.

The lower picture basically is a depiction of the same area as of present, whenever that photo was taken, which I assume was probably within the last year or so.

Chairman CARPER. A member of my staff said, with tongue in cheek, maybe they are just better recyclers now and we have these recycling containers and folks are being better human beings. That is not true, though, is it?

Mr. FISHER. Well, that is certainly an argument, but then I would be able to show you what the Border Patrol agents are tracking each shift in terms of how many people are actually going through there, and they are getting very good in terms of individuals utilizing technology and their own innate skills in tracking, being able to—not a complete science, but be able to depict levels of traffic and people that are coming through areas like this.

Chairman CARPER. OK. All right. Can we look at the next chart,<sup>2</sup> please? Would you describe it for us?

<sup>1</sup> The photo submitted by Mr. Fisher appears in the Appendix on page 186.

<sup>2</sup> The photo submitted by Mr. Fisher appears in the Appendix on page 187.

Mr. FISHER. Certainly. This is just a depiction of before and after in terms of the type of technology that we would utilize along the border. To the left, you see an old generation night vision. I was mentioning to the General before the hearing, I said, it looks like one of the AMPBS 7-Bravo night vision equipments that, when I was a young agent working in the Arizona area, was given from the military. And back then, being able to see three feet in front of you with ambient light was a big deal, because absent that, we did not have any ability to do that. But then you fast forward and the type of technology that is available to the agents today, both in terms of their ability to see further and with more clarity, helps them really differentiate the types of threats that they are seeing out there in the desert. So this depiction just captures one piece of technology over the course of the last few years that has really enhanced our ability to protect this country.

Chairman CARPER. That is pretty dramatic. One more chart,<sup>1</sup> and then I will yield to Senator McCain.

Mr. FISHER. Again, this is a snapshot, a before and after picture, and if memory serves, this is the Douglas area within Tucson sector. The top photo depicts a section of the border many years ago. We referred to it—appropriately, perhaps, looking at the photograph—as the ditch. And the picture below it is the same area with a level of infrastructure. The infrastructure includes primary fence. It includes an all-weather road, which allows the Border Patrol agents access laterally from one area to the other to respond to different threats. You will see a secondary fence and then in the background you will see some integrated fixed towers that provide the Border Patrol agents advance information in terms of on the approach of anybody seeking entry, either over or through the primary fence.

And one interesting piece when you just look at this type of technology, what it does for us, it frees up the amount of Border Patrol agents that, absent that type of technology and infrastructure, would require a lot more Border Patrol agents on every shift to patrol those areas.

Chairman CARPER. All right. Well, thank you for that testimony. Thanks for sharing these photographs with all of us. Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman, and I thank the witnesses.

Mr. Fisher, I agree with you. I think all of us are in agreement. I have been down on the border for the last 30 years and there have been significant improvements, but we really do not know how significant they are. As you said, you cannot rely on apprehensions as the only measurement. But the fact is, we have no measurements. We have no measurements now.

Let me read to you a quote from the Government Accountability Office (GAO) report of last December. Quote, “Border Patrol is developing key elements of its 2012–2016 strategic plan needed to define border security and the resources necessary to achieve it, but has not identified milestones and timeframes for developing and implementing performance goals and measures in accordance with

<sup>1</sup> The photo submitted by Mr. Fisher appears in the Appendix on page 188.

standard practices in program management. Border Patrol officials stated that performance goals and measures are in development for assessing the progress of agency efforts to secure the border between the ports of entry, and since fiscal year 2011, DHS has used the number of apprehensions on the Southwest border as an interim goal and measure. However, as GAO previously testified, this interim measure does not inform program results and, therefore, limits DHS and congressional oversight and accountability.”

My question to you is, I agree with you that apprehensions are not the only measurement, but we have no other measurement right now. In fact, incredibly, in testimony before the House, Mr. Borkowski told Republican Representative Candice Miller, quote, “I do not believe that we intend that the Border Conditions Index (BCI) will be a tool for the measurement that you are suggesting.”

When are we going to have these measurements of effectiveness as the Government Accountability Office says that we need, because if you do not believe that apprehensions are the answer, then what is the answer that we have right now at our disposal in order for Congress to make a judgment?

Mr. FISHER. Thank you, Senator. I will list two things in particular. The first thing is what we call the effectiveness ratio. At the end of the day, one of the things that is really important to us is not just the apprehensions. We want to know, to the extent that we are able through technology and agent observations, we want to know how many people come across the border, and of that number, how many people do we either apprehend or turn back. That allows us to understand flow——

Senator MCCAIN. So have you developed the metrics and the standards or not?

Mr. FISHER. We have, sir.

Senator MCCAIN. You have?

Mr. FISHER. Yes, sir.

Senator MCCAIN. You have?

Mr. FISHER. Yes, sir.

Senator MCCAIN. And we are using them?

Mr. FISHER. We are at the tactical and the strategic level trying to understand where it makes sense to capture that, because not in all areas——

Senator MCCAIN. I am not asking where it makes sense. What can I, what can the Members of this Committee have as a basis to determine the level of border security?

Mr. FISHER. Well, one of the things that we are doing and rolling up at the strategic level is——

Senator MCCAIN. Are you sharing that with Congress?

Mr. FISHER. We are just starting to, sir.

Senator MCCAIN. Oh, you are starting to.

Mr. FISHER. Yes, sir.

Senator MCCAIN. OK. Well, that is——

Mr. FISHER. This has been an evolution over——

Senator MCCAIN. That is good to know.

Mr. FISHER. Since Rebecca Gambler’s report in GAO, this was something since that report and during their study, things that we have been working within the headquarters and in the field, quite frankly, on doing better.

Senator McCAIN. That is fine, that you are doing that. You are not informing Congress. This Member has certainly not been informed. Certainly no Member of this Committee has been informed, that I know of. And we have to make judgments, particularly since we have pending an incredibly important piece of legislation before the Congress of the United States. I hope that you can get that information. I hope you can establish those metrics. And I would be more than happy to hear from the Government Accountability Office that you have done so. As short a time ago as last week when I talked to them, that has not happened.

Mr. FISHER. Well, it is in the final stages of development, Senator. I can tell you that.

Senator McCAIN. Well, it is certainly gratifying to know, because that is certainly not what was testified before the House by Mr. Borkowski, whoever he is. In fact, I think the Arizona Republic had a very interesting article, I mean editorial, that basically we do not have the metrics and we need the metrics and we need them very badly if we are going to consider overall immigration reform. And when the Secretary of Homeland Security says, well, we do not need a trigger, that gives us a degree of skepticism as to how forthcoming we are going to be.

Apprehensions are up this year around the border, right?

Mr. FISHER. Approximately 13 percent compared to last year, sir.

Senator McCAIN. Thirteen percent up. That may have something to do with an improving economy and a perception south of the border of two things, one, that there is a job market, and two, that sequestration is having an effect on your operations, and that is my next question. Is sequestration harming to some degree your ability to carry out your assigned duties?

Mr. FISHER. It is, sir, in some degree, yes.

Senator McCAIN. Mr. Dinkins.

Mr. DINKINS. Absolutely.

Senator McCAIN. It would be helpful if we could get from you for the record the specific areas where your ability to carry out the border security mission has been impaired, because, obviously, that is of incredible importance and significance.

Mr. Dinkins, on March 7, I sent a letter to Secretary Napolitano asking about what was reported to be 3,000 detainees who were released from ICE detention facilities around the country. I have received no answer. Can you tell me how many were released?

Mr. DINKINS. Sir, I cannot tell you because it is outside of my chain of command and so forth. I am over the investigations portfolio and not the detention or removal—

Senator McCAIN. Whose jurisdiction does that fall under?

Mr. DINKINS. That would be my counterparts. So, within ICE, we have the Director and Deputy Director; and then myself who is over Homeland Security Investigations; and Gary Mead, who is actually—

Senator McCAIN. So you do not know the answer to the question?

Mr. DINKINS. I do not know the answer, sir.

Senator McCAIN. General Alles, you are familiar with VADER radar.

Mr. ALLES. Yes, sir.

Senator McCAIN. You have seen it in operation in Iraq.

Mr. ALLES. Yes. I have seen it in operation in Arizona. I am familiar with some of its Department of Defense (DOD)——

Senator MCCAIN. I have seen it in operation in Iraq. It seems to me that this is an incredible technology tool. Do we have plans to acquire more of that?

Mr. ALLES. Sir, currently, in the current appropriation bill, there is money for two more systems. We do have plans to get two more. We would like to get to an objective of six of those systems.

Senator MCCAIN. Would you supply for the record what is necessary to have VADER coverage for the border?

Mr. ALLES. For the entire border, sir?

Senator MCCAIN. For the entire border.

Mr. ALLES. I would have to calculate it and get back to you.

Senator MCCAIN. That is why I said, would you submit for the record.

Mr. ALLES. All right, sir.

Senator MCCAIN. Now, what is preventing the use of UAVs along the Southern border to be used in high-traffic areas 24 hours a day?

Mr. ALLES. Part of that, as all things, is funding, sir. We need to do some things inside of my organization, Air and Marine, to get more operational utility out of the systems. The other part of it, of course, is I have to have more VADER systems. What I have right now is a lone system from the Army.

Senator MCCAIN. Given your experience and background, do you not believe that VADER plus drones could be absolute vital tools in attaining effective control of our border?

Mr. ALLES. I think, sir, it will help us characterize what the border looks like. The end piece of this is quite complicated and large, so actually getting full operational control of the border is difficult. This will help us see what the movement looks like in a more comprehensive way.

Senator MCCAIN. Well, seeing is the first step in getting border control, please. And I have seen both UAVs and VADER radar in action, including the Battle of Sadr City and other places, where it has been extremely effective. Detection is the first step that we need. So would you supply for the record the requirements that would be necessary for VADER and UAV, VADER across the border and UAVs that would be necessary in high-traffic areas.

Finally, Mr. Chairman, if you will indulge me 1 second, in Arizona today, High Intensity Drug Trafficking Areas (HIDTA) will say that there are guides sitting on mountaintops in Arizona guiding the drug smugglers up all the way from the border up to Phoenix, where it is distributed through most of the country. Do you agree with that assessment? Mr. Fisher, or whoever wants——

Mr. FISHER. Yes, Senator. I am aware of those networks and their capabilities in Arizona.

Senator MCCAIN. And the cost of an ounce of cocaine has not gone up a dollar in the last 5 years. That is the ultimate indicator of whether we are restricting the flow of drugs or not, and that is part of the equation as far as border security is concerned that I think we need to pay a lot more attention to.

Mr. Chairman, I want to thank you again for your interest and involvement and your visit to the border out of your very busy



schedule. We appreciate your understanding and appreciation of the challenge that we face in the Southwest. And I thank the witnesses.

Chairman CARPER. Thank you for letting me come down and for spending that much time with me.

The point that Senator McCain is making here is apparent to all of us. If we want to be able to say that we have a more secure border, how do we measure that and be able to say not just that we are apprehending fewer people, that it means we have a more secure border? That is counterintuitive. So it is one of a number of measures we can use, but it cannot be the only one.

I said this to some folks down in Arizona when I was there. I said, maybe if we had the ability to actually quantify the number of folks who are trying to get across the border. We will say it is 100. The number that go back, turn-backs, we will say maybe it is 10. Then to be able to measure, as we do, the number that are detained when they come across, and then do a little bit of arithmetic—as Bill Clinton would say, a little arithmetic—and figure out how many came across but got away.

What I hope we can do is work toward a system. Not just folks on the ground. Not just in the air. Not just ground support radar. Not just intelligence. But an approach—this is an oversimplification—but an approach that actually enables us to measure that so that we can say with some certainty that the borders are more secure. Not just we have the pictures you are showing, and they are pretty compelling, but to actually have the numbers to back that up. All right. That is an oversimplification, but I think that is where we need to go. And with the kind of technology that Senator McCain is talking about, maybe we can get there. Senator Tester.

#### **OPENING STATEMENT OF SENATOR TESTER**

Senator TESTER. Yes. Thank you, Mr. Chairman. I want to thank all the folks who testified for their testimony.

Since before 9/11, I have been aware—a change of focus to the Northern border now for a second. Since before 9/11, I have been aware of opportunities for smuggling drugs across the Northern border with low-flying aircraft. I have long thought that deployment of military-grade radar would be very positive along the Northern border. I was encouraged—to intercept the low-flying aircraft.

I was encouraged that DHS entered into an agreement with the Canadian Government in 2011 to begin receiving Canadian radar feeds. Can you provide me, and whoever, it may be you, Mr. Alles, but can you provide me an update on how this initiative is going, the effectiveness of those feeds as far as your ability to determine what is going on, on the Northern border?

Mr. ALLES. Those feeds are fully integrated now into our Air and Marine Operations Center in Riverside, California, and those are combined with the hundreds of Federal Aviation Administration (FAA) radar feeds we receive from across the United States and military radar feeds. So those are integrated. They very much give us a much better picture of what the air flow looks like across the Canadian border. So, it has been a great advantage to us in terms of air security, sir.

Senator TESTER. And is that air flow able to be monitored 24/7?

Mr. ALLES. Yes, sir. That is able to be monitored 24/7. I should qualify. In the low-altitude arena, you are going to have areas that have gaps.

Senator TESTER. How low is low?

Mr. ALLES. Low would be something down 5,000, 2,000, 1,000 feet.

Senator TESTER. OK. So that is not—to be honest with you, some of the area where there are mountains, that is low, but truthfully, a lot of the area that I am talking about, the rising elevation of the ground is not much. So you can be right on the deck with a 182 Cessna, for example.

So the question becomes, from your analysis, are we still talking about anything under 500 feet we cannot determine?

Mr. ALLES. If they are at low altitude, sir, we are going to have a difficult time picking them out.

Senator TESTER. OK. So we are not where we need to be, are we?

Mr. ALLES. Well, I think in terms of risk reduction, we certainly have reduced the risk to ourselves on the Northern border by integrating the feeds that we currently have. Nowhere across the United States do we have coverage that probably extends all the way down to the ground.

Senator TESTER. OK. Well, I mean, I just think that—and I will say this again—I hope that there are opportunities to expand this, whether it is done through cooperative agreements with the Canadian Government or whether it is done by ourselves. But the bottom line is that—and I live 75 miles from that border on very flat ground that you could probably flood irrigate without moving much dirt, to be honest with you. That is how flat it is. And these planes can come across the border. They can land in these little airports, put in a credit card, fill up their plane, and they can go anywhere they want, and that is a concern to me.

If it is a concern to me, I hope it is a concern to you, and I hope there are proposals to be put forth to deal with that situation, whether we are talking about drugs or weapons of mass destruction, whatever we might be talking about. So I just put that forth as an opportunity to move forward in a positive way.

Mr. Dinkins or maybe Mr. Fisher, or maybe both, or Mr. McAleenan, maybe all of you, on a recent trip to the Northern border, I spoke with some Customs and Border Protection agents who were frustrated by some jurisdictional issues with the folks at ICE. In one case, the CBP had actionable intelligence to make a number of arrests and was ready to move forward, but ultimately they had to defer to ICE because the matter was qualified as an interior enforcement. At the end of the day, as we talk about immigration reform here—at the end of the day, nothing was done, and the folks who could have been arrested and sent back to their country because of being unpapered were not.

Can you clarify how CBP and ICE are currently handling overlapping jurisdictions or even gaps in regard to the arrests of undocumented individuals?

Mr. FISHER. I would be happy to, Senator. In a couple of locations we are getting better at that. I will tell you—a place like South Texas—we, along with ICE and law enforcement partners

are sitting down in advance of an operation and doing what is called joint targeting.

Senator TESTER. OK.

Mr. FISHER. We will bring all the intelligence components in and all the law enforcement components, including the U.S. Attorney, and we will understand better about those networks and those organizations than we ever would individually. And then we are identifying what is the best enforcement approach. In some cases, it is going to be an investigation. In some cases, it is going to be an interdiction. And we need to get better at that as we move forward.

Senator TESTER. But what about the issue—and you can jump in if you would like, Mr. Dinkins—what about the issue of, and I do not remember what the mile is, whether it is 50 miles or 100 miles or 75 or something, but what about the issue where there is actionable intelligence to move forward. ICE does not have the manpower to deal with it and Customs and Border Protection is saying, “That is not your jurisdiction. I do not want you fooling around with this.”

What are we doing with that, because, quite frankly, if that is happening with any sort of—I mean, it is a problem and we have to fix it. And so what are we doing, agency to agency? The President always talks about, we have to quit working in silos, and I agree, we need to work more as a team. What are you doing when there is a problem like that? Is there an opportunity for agents to make you aware of it, or the supervisors aware of it, and are the supervisors instructed to, you know what, if there is actionable intelligence, go after it and do it. If it is out of our gourd, get hold of ICE and tell them we are doing it, or vice-versa?

Mr. DINKINS. Senator, I can tell you, Mr. Fisher and I have established some very good communications all the way down to the field level. So an incident like you just mentioned—

Senator TESTER. Yes.

Mr. DINKINS [continuing]. I have not heard about in, quite frankly, years.

Senator TESTER. OK.

Mr. DINKINS. So I am not sure if they are referring back to, maybe, the old days or recent—

Senator TESTER. No. I am aware of the situation. I am aware of the facility that was being built and it is relatively recent. It is within the last year.

Mr. DINKINS. OK. But I will say that—we have communications not only at the field level, between the chief and the special agent in charge, but also, we have an advisory group that comes together to make sure that those issues do not come about. Because, from an ICE perspective, if I do not have the agents and resources to do it, we are not telling people not to do it. What we are asking for—is that we are making sure we are coordinating, and we are having a seamless communication between what gets done.

Senator TESTER. OK, and I appreciate that. I think that, in the end, when it comes to these things—and it was not a Customs and Border Protection issue because it was far enough away from the border where they could say, “No, it is not my job.” But on the other side of the coin, if ICE cannot do it, and there are other

issues with manpower and money with ICE, because Montana is a big State and we have a 550-mile border with Canada in Montana alone, there has to be some ability—and I guess this is a question for the folks on the ground, whether they are working in ICE or whether they are working in CBP—to be able to say, look, this is what is going on and we are not doing anything about it without being reprimanded. Is that there?

Mr. FISHER. Sir, I will tell you that I have instructed all the field commanders and the supervisors that make those day-to-day judgments and decisions about deployments and managing risk, and ultimately, I leave it up to them in terms of being able to respond—

Senator TESTER. OK.

Mr. FISHER [continuing]. And Border Patrol agents generally will not say, “It is not my job.” What they will do is try to understand what their priority mission is, and without degrading the priority mission and border protection, in cases, we will be able to respond.

Senator TESTER. Super.

Mr. FISHER. In other cases, we will not, sir.

Senator TESTER. And I just appreciate that, and I would just say—and my time is long gone, but I would just say that this really is an issue, from my perspective, that deals with leadership, and if you guys make it known to your leaders, mid-level management folks, that this is important to you, my guess is that it will work out a lot better.

I am concerned about sequester, too, and overtime, and I have several other questions I want to introduce for the record.

Once again, thank you guys for your service. I very much appreciate it. We have more work to do, but I think you guys are fully capable of meeting our needs. Thank you.

Thank you, Mr. Chairman.

Chairman CARPER. Thank you, Senator Tester.

Senator Ayotte, you are next, and if Senator Landrieu does not show up or Senator Johnson does not return, Senator Baldwin, you are right after Senator Ayotte. Thanks for joining us. Senator Ayotte.

#### OPENING STATEMENT OF SENATOR AYOTTE

Senator AYOTTE. Thank you, Mr. Chairman.

I want to thank the witnesses for what you do to protect our country. We really appreciate it.

General Alles, I had a question for you. What is the current protocol for CBP to inspect cargo ships arriving at a seaport? The reason I raise it is because I understand right now in New Hampshire, and, obviously, we have a seaport in the Portsmouth area, that ships arriving during the night are being held at sea as CBP agents are unable to board them to inspect the cargo for hazardous materials as they would customarily do. So you get there at night, you wait, and they are not boarding until the morning.

And one of the concerns I have and the concerns I have on the ground there is that this delay in inspecting the ships could create an unnecessary risk. And, obviously, if somebody has contraband on board or they even have people that should not be on board because they are there illegally, that gives them an opportunity to

sneak off during the night, until the inspectors come in the morning.

So can you help me understand what the policy is, why this is happening, and get your thoughts on it.

Mr. MCALEENAN. Senator, that will be my area of responsibility.

Senator AYOTTE. OK. Sure.

Mr. MCALEENAN. Thank you for the question. We have extensive protocols for arriving vessels into our seaports. In terms of the crew and passengers on board, we are aware of who they are up to 96 hours before arrival and will have vetted them through all of our targeting databases prior to arrival. We also have mechanisms to receive information on the cargo coming in on these vessels that has been addressed prior to arrival.

I can look into this specific question in New Hampshire and get back to you. The hours of operation, generally, we have core hours and we have regular expectations for the vessels that call on our ports in terms of when we will be able to be there. If they are being held, that was probably an effort to ensure the security of the crew. As you noted, any potential contraband in cargo before it was offloaded.

Senator AYOTTE. I would appreciate your looking into this issue for me, because when I was over there visiting, what I heard is this is a change in policy, so it has not been done this way in the past. And that is why on the ground level, what I am hearing is a lot of concerns about it being done differently and a belief that it gives opportunity for criminal activity to flourish or to undermine what we are all trying to accomplish. So if you can followup with me, I would really appreciate that, so I can understand, because from the perspective on the ground, it is a change in policy of what has happened in the past.

Now, obviously, if this is an issue of resources because of sequester or whatever the issue is, I just need to understand and what your thoughts are on it. So I appreciate the followup on that. Thank you.

And also to followup, Senator Tester asked you about the Northern border, and so whomever is the most appropriate to answer this question, and I certainly appreciate the slides that we saw that focus very much on the Southern border and the challenges that we have there. My State, of course, borders 58 miles with Canada, in addition to our seaport that we just talked about as a port of entry. And we also have a port of entry on the Manchester-Boston Regional Airport. So a lot of places that certainly we focus on in New Hampshire.

Can you help me understand what the biggest threats are with respect to the security along the border with Canada? Particularly, I think about the border. We have a 58-mile border, but there are obviously other portions of the border that border Canada, and what are our challenges there?

Mr. FISHER. Senator, thank you for the question. In general terms, when we look at our borders and compare it North and South, one of the things that is different in terms of how we identify a general threat on the Northern border really stems from the fact that approximately 90 percent of the population in Canada lives within 100 air miles of the border. And differentiating that

threat versus hundreds of people coming across the border to the South, we have to look at it a lot differently.

One of the things that we do with our law enforcement counterparts in the region and with the Royal Canadian Mounted Police and Canada Border Services Agency (CBSA) and others within Canada is we have over the years worked jointly in terms of the Integrated Border Enforcement Teams (IBETs). They are called the IBETs. And what we do is we come together frequently. As a matter of fact, in many cases along the border, it is steady State operations, where we are constantly sharing information, bringing all of our resources together and trying to understand what the broader picture is in terms of threats in the region. And we have very good working relationships with our counterparts in Canada.

And what we then try to establish is what are the emerging threats and what is the best way to approach those from a joint international standpoint, and then working with Jim and the investigators and trying to fulfill either intelligence gaps or identifying what additional resources that we may need to bring into the particular area at any given point in time.

Senator AYOTTE. So what are the biggest threats right now with respect to the Northern border?

Mr. DINKINS. I think that goes back to, measuring border security, and I can tell you what we are seeing is continued persistence, interdictions and investigations; and what we find is the Transnational Criminal Organizations (TCOs) are involved in the Northern border between Canada and the United States. Hydroponic marijuana continues to be persistent, and the laundering of those illegal proceeds from the United States back into Canada. We have often seen drug trafficking organizations, that predominately used to be involved in just smuggling cocaine, and marijuana into the United States, but now often engage with trafficking organizations from Canada that then route it to the United States, ultimately for distribution in Canada. And, there are intellectual property crimes, as well.

So many of the same threats that we face as a Nation everywhere, to some different degree and extent are seen along the Northern border, depending on the type of situation.

Senator AYOTTE. Can you tell me, on the apprehension measure that you were all talking about, how has that changed on the Northern border? Where are we if you look at historical average on apprehensions? And so whatever metrics we are going to establish on the Southern border, presumably, those metrics would apply to the Northern border, as well, but can you tell me about the apprehension one that you mentioned earlier?

Mr. FISHER. Senator, over the years, there has been very little fluctuation in terms of apprehension numbers, and I think you hit it right. The metrics utilized on the Southwest border would not necessarily make sense in a Northern border construct.

For instance, if you are looking at, as the Chairman indicated, effectiveness ratios, we want to know how many people came in and how many people did we apprehend or turn back. Well, that makes sense in areas where that threat has been established as high levels of activity. It would not necessarily, in my judgment, be a good value measure in areas where we do not see a lot of that

type of activity. But nonetheless, there are metrics that we would need to establish to be able to baseline the extent to which our border is secure in those areas.

For instance, it would be known and likely criminal activity that is coming in between the ports of entry and how, then, do we work as an international force to be able to disrupt and dismantle those networks along the way. That would make sense in an area in the Northeast, perhaps.

Senator AYOTTE. And I know that my time is up, but I appreciate your all being here and for your testimony. Thank you.

Chairman CARPER. Thanks for those questions and for you being here.

Senator AYOTTE. Thank you.

Chairman CARPER. All right. Senator Baldwin, good to see you, another State with a Canadian border, as I recall.

#### **OPENING STATEMENT OF SENATOR BALDWIN**

Senator BALDWIN. Lake Superior, so international waters.

Chairman CARPER. There you go.

Senator BALDWIN. Thank you, Mr. Chairman, Ranking Member Coburn.

I want to thank all of you for your service to our country and for being here today, and I hope that you will convey to your hard-working agents our indebtedness for what they do to focus on territorial integrity and our economic security, too.

I thought I might be the only Senator who was deviating from the focus on the Southern border, but I guess all politics is local and so my questions actually focus on a couple of issues that are of particular concern to the people of the State of Wisconsin.

We have a large manufacturing base in the State of Wisconsin and we have several major shipping ports in Milwaukee, Green Bay and Superior. And so I wanted to take this moment to inquire about the relevant Customs and Border Protection responsibilities in these areas. And if I do have time after that conversation, I do want to ask a question about potential effects of border surveillance on constitutional civil liberties of American citizens.

But, first, manufacturing represents a large share of Wisconsin's economy and many jobs in my State are supported by manufacturing, and my constituents and I are very concerned about unfair trade practices, dumping practices by other countries, and particularly China. I have heard concerns about two techniques that are regularly used to avoid import tariffs, mislabeling goods and falsification of country of origin through transshipment.

And so I wonder if you can address for me CBP's views on, first, how great of a problem are these and other such tariff evasion schemes? Second, what is CBP doing to detect these efforts and how effective have you been and how can you improve even more? And third, I recognize that the Department of Commerce and International Trade Commission play in this same arena, so I am curious to hear how CBP is integrating its efforts with those other key players to ensure full enforcement, such as real time information sharing.

I think I will throw this out to you, Deputy Commissioner McAleenan, and then others can pitch in if you have other points to make.

Mr. McALEENAN. Thank you, Senator. An important question, and really one of the critical responsibilities of CBP is to protect the trade and the U.S. businesses that rely on it.

In terms of the problem of trade fraud and misclassification or mislabeling, that can be done for several reasons, as you noted, to avoid dumping and countervailing duty regulations, to just seek a lower charge on a duty, and to try to increase a market share. This is a problem that we are very focused on. As you noted, it is one that is interagency in nature. We partner very closely with ICE, and I will ask my colleague, Mr. Dinkins, to chime in on our joint efforts there, because we really reinvigorated our trade fraud efforts with the investigative partners.

But in terms of what we do day to day at the ports of entry we rely a lot on our targeting systems, our advanced data and our ability to detect suspect trade practices and validate those through examination. We have what we call our compliance measurement efforts, which include verifying a sampling of trade from a variety of sources to make sure it is compliant, and compliance rates are very high nationally, but we maintain that effort to make sure we are not missing anything. And we also try to focus our examinations on those higher-risk source countries and higher-risk importers to take action.

But I think we have had some significant successes in the past 2 years as we have built our efforts with ICE, and I think Mr. Dinkins can talk about the Intellectual Property Rights Center, which is really doing commercial fraud more broadly, and how we are coordinating with them.

Mr. DINKINS. Yes, ma'am. And this is something, an area that over the last few years, especially with the economy the way that it has been and the struggles that we have had, to ensure that we are doing everything we can to protect the U.S. businesses that are playing by the rules.

I could go on and on, because we have done so much in the last 2 years, but I think that one measure that will tell you the level of seriousness that we are taking on this, not only from Customs and Border Protection but also from ICE Homeland Security Investigations—is that this past year, in fiscal year 2012, we dedicated more resources and spent more time on criminal investigations in commercial fraud than we did any time in my 26-year career, which started with 16 of those 26 years being with U.S. Customs. So as for investigative hours and resources—we have spent a lot of time.

We are using our best practices and experience that we are getting from our criminal investigations, and sitting down with Kevin's folks in his Office of Trade to actually say, "OK, well, what are the criminal organizations trying to do and what loopholes and vulnerabilities are they trying to exploit?" Then we share that information so we can generate additional targets and so forth.

One of the big cases is "Honeygate," we called it. It involved honey coming out of China. We changed, really, collectively, between our two agencies, the way that industry operates to this day.



Senator BALDWIN. Tell me a little bit about your metrics. Obviously, you do not inspect 100 percent, so how do we know how we are doing?

Mr. MCALEENAN. In this area, I mentioned our compliance measurement effort, which does do that random sampling of trade coming across, looks for any violations in that, whether it was a mislabeling issue, fraud issue, improper classification, and so forth. And so we know from those assessments that we have well over 95 percent compliance across all trade. And also, those assessments help inform areas that are of higher risk.

The other key metric we utilize is the number of participants in our Trusted Trade Program, the Customs Trade Partnership Against Terrorism (CTPAT), and an interrelated smaller program for those very large high-volume importers that have accounting practices that they have aligned with our collection process, called the Importer Self-Assessment Program. The CTPAT now account for 55 percent of the total trade. These are companies that we have validated their supply chain. We are very familiar with their security measures. We are very familiar with how they interact with Customs and the trusted relationship they have with CBP.

So I think those are the two key metrics that we use to assess our trade fraud efforts and how compliant the trade community is.

Senator BALDWIN. Thank you.

Mr. Chairman, I would like to submit two additional questions for the record, but I have run out of time.

Chairman CARPER. I will be happy to have you do that and ask our witnesses to respond promptly, if they would.

Dr. Coburn has joined us. Please, Dr. Coburn.

#### **OPENING STATEMENT OF SENATOR COBURN**

Senator COBURN. Well, I apologize for not being here for your opening testimony and the questions that were there.

First of all, let me personally thank you for your service. You do not get a lot of kudos. You get a lot of complaints but not a lot of kudos, and I just want to formally recognize your service and dedication to what you do.

And I may ask some questions that have been asked. If they have been asked, just tell me and we will stop.

One of the things I have heard is since we have had the discussions ongoing on immigration reform, the attempts at border crossings have increased—non-border crossings have increased. Is that accurate?

Mr. FISHER. I am sorry, Senator. Could you repeat that, please?

Senator COBURN. Yes. Since the last 3 months, since we have had a discussion ongoing in Congress about immigration reform, the reports I have from some of my contacts have said that the number of attempted crossings has increased. Is that accurate?

Mr. FISHER. This particular year, yes, sir. We have seen an increase in attempted entries between the ports of entry. We are actually up in terms of apprehensions about 13 percent. The reasons and modus behind that are varied, some of which is hearing sequestration, some of which is hearing immigration reform, and some of it is hearing they just want to come and be joined with their families. There is a whole host of reasons behind that, sir.

Senator COBURN. And I know you have had a lot of questions on metrics, and according to the testimony that 90 percent is what you are looking at in terms of control. What happens to the other 10 percent? Who we are seeing crossing the border now illegally, what percentage is non-Mexican, and other-than-Mexican?

Mr. FISHER. Senator, I will answer the second one first. It is approximately 30 percent. So when you look at the individuals that we are apprehending, approximately 30 percent of those individuals are from a country other than Mexico.

Chairman CARPER. Say that percent again. What percent?

Mr. FISHER. It is approximately 30 percent, sir. About one-third of individuals that we are apprehending this year are from a country other than Mexico.

Senator COBURN. And of that 30 percent, what percentage are Latino but not Mexican? In other words, what percentage of people coming across the border are not from South America, indigent South Americans?

Mr. FISHER. I do not have the exact number, Senator, but it would be very small. In other words, the vast majority of that 30 percent are from three primary countries in Central America, Guatemala, Honduras, and El Salvador.

Senator COBURN. Right. So will you get back to me on that number?

Mr. FISHER. Yes, sir.

Senator COBURN. OK. Thank you.

The other question I have for you, you all each know more about your area than any Member of Congress. You are responsible for it. The ins and outs. If you were given the flexibility under the sequester to manage your areas of responsibility by prioritizing what is most important down to what is least important, would any of you have any difficulty doing that?

Mr. FISHER. No, Senator.

Senator COBURN. Anybody else?

Mr. ALLES. No, sir. I think we are working through the issues.

Senator COBURN. Right. But the point is, regardless of what we have said in the past, you are the key people. What is most important, what is second most important, what is third most important. If we were to give you that flexibility, would that not make your job easier with sequester?

Mr. MCALEENAN. Yes, sir. I think, unequivocally. The one area that we should note, at the office level, much of our budgets are made up of salaries and expenses.

Senator COBURN. Right.

Mr. MCALEENAN. So the flexibility is kind of diminished just by the percentage and the composition of the budget.

Senator COBURN. But as a whole, you actually could be more effective under this sequester if we gave you the flexibility to manage your operations the way people in the private sector get to manage theirs when they are held responsible for an outcome. You would agree with that?

Mr. MCALEENAN. That is a fair statement, Senator.

Mr. ALLES. Yes, sir. I would agree, too.

Senator COBURN. Nobody disagrees with that.

How many of you are familiar with what the GAO has done over the last 4 years in terms of looking at duplication and combining all the reports the Inspector Generals (IGs) have done and looking at duplication and waste and lack of metrics? Have you all read that?

Mr. FISHER. Senator, I am generally aware of the effort, but I could not speak to it in any depth.

Senator COBURN. Well, what I would suggest is you take those last three reports—they have now finished the entire Federal Government, each of your agencies are in there—and look at it. And what I would like for you to do is look at that and say, here is where we agree with them. Here is where we disagree. Here are the things we think they have made in terms of recommendations that are positive and we are going to act on it. Here are the things we think are a waste of our time. They may have some little savings, but it is not a good expenditure of dollars to go after those savings.

If you all would do that for me, that actually puts a check for me back on GAO. They are not always right. They are pretty good, but they are not always right. So one of the things my staff and I get to learn is when we get feedback from you based on what their assessments are in your particular areas. And if you would do that for me, I think it would prove very beneficial for our Committee in terms of helping you.

Our job, and I think Senator Carper has led exceptionally well on this, our job is to help you. It is not just to be critical. Our job is to say, what are our goals? Where is the money? How effectively are we doing it? And can we make any difference on this Committee in terms of streamlining, making you more efficient, and making you more effective?

With that, I will submit some questions to the record that I would appreciate that you get back to me on. Thank you.

Chairman CARPER. Let me ask some questions, and initially, I am just going to ask you to raise your hand or not. How many think the border is far more secure than it was a half-dozen years ago? Raise your hand. [All raising hands.]

Far more secure. How many think that we can do a whole lot more to improve it—a whole lot more? [All raising hands.]

OK. How many think that we can do a good deal more? [All raising hands.]

That is different than a whole lot.

Senator COBURN. What is the difference between a good deal and a whole lot?

Chairman CARPER. There is a difference. A whole lot is a whole lot.

Senator Coburn and I were once at a hearing on the Finance Committee and we had before us a bunch of witnesses who were talking about deficit reduction, something that he and I care a lot about. One of the guys who was testifying was the former Vice Chairman of the Federal Reserve, Alan Blinder. He was Vice Chairman when Alan Greenspan was the Chairman, and he talked about health care costs as the 800-pound gorilla in the room on deficit reduction. Unless we get our arms around health care costs ris-

ing, we are never going to really do a good enough job on deficit reduction.

I asked him in the Q and A, what do we need to do in order to get health care costs under control? And he said, I am not a health economist. I am not an expert on this. Here is my recommendation. Find out what works and do more of that. Find out what works and do more of that. And later on, I suggested, well, maybe find out what does not work and do less of that, and he said, yes.

We need to find out what works, and it has led to the improvement that you all have shown us today and talked about today. We find out what works and what we need to do more of. We need to understand, as well, what does not work so well, what has marginal value, and maybe do a little bit less of that in the budget-constrained world.

I am told that we now spend more money on Border Patrol and, I think, on the folks at Customs and Border Protection, than we spend as a government on the Federal Bureau of Investigations (FBI), Secret Service, the Drug Enforcement Agency (DEA), Alcohol, Tobacco and Firearms (ATF), all combined. It is a huge amount of money, a huge investment that we are making. And we need to make sure that we are getting our money's worth out of those forces on the ground. What can we do as force multipliers in the air, on the sea, in terms of intelligence? So here is what I want to ask.

Going back to what Alan Blinder told us, find out what works, do more of that, what else do we need to do? These VADER systems that we talked about, we have one of them. It is on loan. DHS does not even own it. It is on loan by, I think not by the DOD, but I think maybe by the company that developed it. I am told they cost about \$8 million apiece. Can somebody confirm that for us?

Mr. ALLES. That is roughly correct, sir, yes.

Chairman CARPER. And can they be used—just talk about the number of platforms they can be used on.

Mr. ALLES. Well, the only platform we have it integrated on right now is the Predator. We are looking at manned platforms that would give us more flexibility. We have not done that work yet. The Army actually is doing some work on that right now. We are going to piggyback on that work, because they are doing it on an aircraft that is similar in type to ours. So when they finish that, we will try to piggyback on that same work.

Chairman CARPER. OK. Well, if I were a bad guy trying to get through with, whether it was drugs or trying to get through with people, I would certainly try to find out what the drone schedule is and the days that you are up, the days that they are not. Try to find out which one the VADER is on and the ones that are not.

And one of the lessons that I took back with me is we need to resource the drones so that they can fly almost throughout the week, 24/7.

The second thing, we need to figure out how the C-206— a smaller airplane, older airplane—how can that be used effectively in this effort? Can the VADER be mounted on a C-206? Does that make sense? Can a VADER or some other system be mounted on the lighter-than-air units that we have and we deploy in Afghanistan and other places along the border?

Talk with us about which of those applications of technology actually make sense, could be cost effective, and enhance the effectiveness of the thousands and thousands of men and women that we have arrayed across our borders, from one end of the Mexican border to the other. General?

Mr. ALLES. So, from my standpoint on the VADER system, sir, as you noted, it is a lone system, so we would like to procure more of those systems and also integrate them on manned platforms.

And then the other piece of this, too and I think you obviously saw the Cessna 206 when you were out there, is a low-cost platform. The actual sensor on it costs probably five times as much as the aircraft. But we are looking at putting more of those sensors on lower-cost airplanes because it gives us better efficiencies and helps us in terms of our flying hour program. So it is a money saver for us.

Chairman CARPER. Let us just drill down on that, the C-206. I did not ask the cost of the drones, the cost of acquiring and operating them; we will leave that to another day. But you mentioned the VADER mounted on the drone might be about \$8 million.

Mr. ALLES. Yes, sir.

Chairman CARPER. The system that the surveillance system is on, the C-206 aircraft—

Mr. ALLES. That was about a million-dollar ball that is on the aircraft.

Chairman CARPER. All right. And the cost of the aircraft?

Mr. ALLES. I would have to get back to you—

Chairman CARPER. Just roughly. Under a million?

Mr. ALLES. Maybe a hundred-thousand.

Chairman CARPER. It is peanuts compared to what we spend around here.

Mr. ALLES. Yes.

Chairman CARPER. How do we figure out how to use the 206 in a way that complements the use of the drones and the lighter-than-air?

Mr. ALLES. I think that also gets back to the operational integration piece, which is what we are really working on with VADER. That is the one we have to get right in the Arizona area. The Joint Field Command we have out there now is working very hard on that particular operational integration and starting to enjoy some success with it.

Chairman CARPER. All right. One of the things we have not talked about is intelligence, and I want to take maybe a minute on that. Before I do, you have over here Senator Landrieu, who chairs the Appropriations Subcommittee that deals with Homeland Security. This is the Committee of jurisdiction. We have a guy here who chairs Armed Services and has led that Committee, along with Senator McCain, for a long time. You have literally in this Committee, those who serve on this Committee and in other areas, some of the folks who can actually make sure that the additional resources that are needed can be provided.

I do not know that we are ever going to get to that simple example that I cited earlier, where you figure out, do we have 100 people approaching the border? Yes. Be able to say, yes, with some certainty, we do. Did 10 of them turn back? To have some certainty,

yes, we can do that. We know how many people we apprehend out of that 100. And if it is 80, then it means 10 got away. My real question is, is it a fool's errand to think that we can develop the technology, combine that with our ground resources, a multi-layered effort in technology, and actually be able to make those kinds of calculations? I think that is the metric that we would all say, I believe in that.

And the other stuff that I think the Department is working on that I know just a little bit about—we talked about it here today and I have talked about it with my staff—I am not sure that is going to convince anybody that the border is really more secure.

So is it a fool's errand to think that we can actually put together this multi-layered technology, human resources and so forth on the ground, in the air, lighter-than-air, different aircraft, different platforms, different kinds of sensors? Is it just not realistic, or is it realistic?

Go ahead, Mr. Fisher.

Mr. FISHER. Senator, it is realistic, and I think you have hit it right on the head. You are on the right track and we would love to work with you and your staff as we get smarter about what we are learning about the technology and what that gives us in terms of being able to report out those specific variables that you are talking about.

Chairman CARPER. Anybody else before I yield to Senator Levin?

Mr. ALLES. I was just going to make a comment, sir. I think, as Chief Fisher mentioned before, part of this, though, we are going to want to use the technology we have—VADER is an example, synthetic aperture radars or links are an example to help us characterize and decide where the investment makes sense.

Chairman CARPER. Yes.

Mr. ALLES. So to think that we are going to do it along the entire link, I mean, it would be fantastically expensive. So I think that would help us. I think that is an area we look at, as we talked before, about where it makes sense threat-wise.

Chairman CARPER. Good. As my dad always said, use some common sense and we will try to do that here.

And I want to say again to Senator Levin, my heartfelt thanks for not just the great hospitality that you extended to me when I was up in Michigan along the Canadian border, but just to share your expertise and insights with me. It was a terrific visit. I really appreciate it.

Senator LEVIN. Well, we appreciate your taking the time to come to the border with Canada, which is an amazing border in a lot of ways, and some of those ways you were able to personally witness, and we are just grateful that you would take the time to get kind of a hands-on experience of our borders, whatever borders there are.

I want to just focus on the Northern border issue. This is what the GAO said in their report. A few years back, a number of us asked the GAO to report on border security, and this is some of what they said in their report. Historically, the United States has focused attention and resources primarily on the U.S. border with Mexico, which continues to experience significantly higher levels of drug trafficking and illegal immigration than the U.S.-Canadian

border. However, the GAO says, the DHS reports that the terrorist threat on the Northern border is higher given the large expanse of area with limited law enforcement coverage. There is also a great deal of trade and travel across this border. While legal trade is predominant, DHS reports networks of illicit criminal activity and smuggling of drugs, currency, people, and weapons between the two countries.

Now, there is a huge gap in terms of our resources that are allocated to the Northern border versus the Southwest border. There was growth, in the last 10 years, in the number of Border Patrol agents, which nearly doubled from 10,000 to 21,000—but that growth was concentrated at the Southwest border where almost all of the added agents were sent. So the added agents, 10,600 went to the Southwest border.

Now, there is a huge disparity there. We have tried to get into this at times. Despite the fact that the terrorist threat is greater at the Northern border than it is at the Southwest border, nonetheless, we see this huge gap in terms of resources, both the ones that began, were there before 2004, and the ones that have been added since.

So, Mr. McAleenan, let me ask you, why is this? Given what the findings of DHS have been, that the terrorist threat is greater on the Northern border, the amount of trade is far greater—Canada is our No. 1 trading partner, and that means the risk to that trade is greater because there is more trade—why this huge disparity? Why does it continue? In fact, why does it grow?

Mr. MCALEENAN. Senator, thank you. I will let Chief Fisher speak to the significant percentage growth in Border Patrol agents on the Northern border in the past decade, but speaking for the ports of entry and the Office of Field Operations, you are correct. The encounters with terrorist watch listed individuals are higher on the Northern border than on the Southern border, but we are very focused on that threat. And our partnership with Canada has changed dramatically in the last 10 years, both in terms of our intelligence and information sharing, our benchmarking and our targeting approaches, and a whole series of programs in terms of joint Integrated Border Enforcement Teams that we participate on. We are co-located, working together. This is a serious focus for us, and I do not think at the ports of entry, for sure, the resource levels are in any way diminishing our ability to address our anti-terrorism mission.

Senator LEVIN. OK. Mr. Fisher.

Mr. FISHER. Senator, we had approximately 300 Border Patrol agents along the 4,000 miles in the Northern border prior to 2011. We are at about 2,212 Border Patrol agents across that border. We maintain that level of staffing as our mandatory minimum staffing levels. And as Mr. McAleenan mentioned, our cooperation with Mexico, or, I beg your pardon, with Canada, has increased over the years, both in terms of our enforcement and intelligence sharing.

But I will tell you, if we do have any specific intelligence on whatever that threat is which increases our capability between the ports of entry to respond accordingly to that threat, we will move Border Patrol agents from anywhere along the United States bor-

ders, whether it is North or South, to be able to mitigate and minimize the impact and risk that the threat may pose to this country.

Senator LEVIN. So we rely basically on better intelligence cooperation between ourselves and Canada?

Mr. FISHER. Senator, that is correct, not exclusively, but that is certainly a key indicator for us to be able to identify those threats, emerging threats, that may be coming toward our borders.

Senator LEVIN. And we have better intelligence cooperation with Canada than we do with Mexico?

Mr. FISHER. I would not necessarily qualify it as better. There are different programs that are set up independent of what our relationships are with those countries, things that are based on treaties, things that are based on what we can or cannot share. But I will tell you, what we do on the Northern border with Canada, although we may not do it in the same manner, we would certainly do that with our partners in Mexico, as well.

Mr. ALLES. Senator, I would just make the comment from my standpoint on the air side, we have a substantial air presence, but most of what I see security-wise up there really falls in our cooperation with ICE in terms of intelligence development, case development, and really targeted enforcement to provide security.

Senator LEVIN. There are entry points. There are walking paths. There are boats. We have lakes up there that are huge where there is boating going on all the time. It seems to me that it is a much easier border to cross illegally than the Mexican border. We are building a fence where we have, what, seven or eight times as many agents there as we do on the Northern border. To say that the Northern border is porous is to exaggerate. The porosity, it is not porous, it is nonexistent in places. There are hills and mountains right along the border where people just walk across and back without any awareness of it.

And what the GAO has found, and I think what the DHS has acknowledged, is that this border is a source of a greater terrorist threat than the Mexican border. It seems to me that this should be considered the No. 1 problem we have, more than illegal immigration, which we are acting on in so many other ways.

My time is up. I do have a question that I will submit for the record, Mr. Chairman, about the so-called Administratively Uncontrolled Overtime (AUO). Has that been inquired about today? I will save that for the record, since we have apparently appropriated funds to continue that overtime, what the plans are of the agency in that regard. But, again, I will submit that. Thank you.

Chairman CARPER. Thank you, Senator Levin.

Senator Baldwin, any other questions you would like to ask?

Senator BALDWIN. I will submit them for the record.

Chairman CARPER. OK. Thanks so much for joining us today and for your interest and participation.

Senator Coburn, I have a couple more questions I am going to ask, but Dr. Coburn, do you have anything else you would like to add or take away?

Senator COBURN. No.

Chairman CARPER. OK. Thank you.

A few more and we will be out of here within 10 minutes, I promise.



One of the things that struck me in the time I spent with Senator Levin up on the Canadian border was the work that we do with the Canadian Government, sharing resources, their ability to move across the border, Canadians into our country, us into theirs. They are working in a collaborative way in teams, the amount of intelligence that we share with one another. And we talk about force multipliers on the Southern border, on the Mexican border, what those might be. But one of the great force multipliers in this work that you all do is, obviously, intelligence. And if we are going to use the kind of VADER systems and other kind of air systems and marine systems to better allocate and deploy our ground forces on the border, one of the best ways to do that is intelligence.

So I am going to ask you, if you can, to just compare for us the degree of helpfulness of information and intelligence sharing on the Northern border, compare that with what we have to work with on the Southern border. To the extent you can, compare and contrast. Is there anything we can learn for deploying our Southern resources on the Mexican border from what we are doing up North, sort of lessons learned? Please.

Mr. MCALEENAN. I will start and defer to my colleagues for any additional response.

I think what we are trying to do in terms of the ports of entry is really move our assessment of risk as far back in the travel cycle and supply chain as possible. So that involves getting intelligence from the intelligence community on the threat, the origin of the threat globally, how that threat might move toward us. And really, if you are looking at the Canada and Mexico collaboration, that is trying to understand who is trying to get into Canada and Mexico and to share information with them in terms of what we are seeing as the threat and to really benchmark what we call our targeting approaches. That is how we look at the data on people and things moving into the United States, similarly, into Canada and into Mexico, to try to pick out those people and goods that might present a risk.

And so we are doing very similar things with both countries in terms of working together in their targeting centers with our National Targeting Center to share that information, to benchmark how we approach the threat, and to identify it. And that intelligence collaboration and sharing is going very well in both borders.

Chairman CARPER. Others, please.

Mr. FISHER. Senator, thank you for the question. We continue to learn how important information and certainly intelligence is and our ability to protect this country. And as we learn things that we may have implemented on the Southern border in terms of collection or dissemination, we certainly try to apply that on the Northern border.

But one of the most important characteristics, at least from our standpoint in implementing our strategy, is recognizing that, one, there is a convergence of transnational criminal organizations and terrorism. That is something that kind of changes the landscape in terms of how we have to continue to learn from DOD and others, the intelligence community, in terms of how they can support our ground agents on the field and being able to pre-deploy resources to be able to minimize risk. And one of the ways that we have un-

derstood how to do that better is to work with the intelligence community through our own Office of Intelligence and certainly through the Department and telling those analysts and collectors what is important to us.

Historically, we never did that. We did not talk in terms of having priority intelligence requirements. Heck, we did not even have an intelligence cycle. So as we are starting to get smarter about that, we have identified what our intelligence are. And we took——

Chairman CARPER. So this reminds me of the old adage in business, ask your customer.

Mr. FISHER. That is right. Yes.

Chairman CARPER. You are the customer.

Mr. FISHER. Well, I think——

Chairman CARPER. One of them.

Mr. FISHER. I grew up in an organization that I was always complaining as a Border Patrol agent that nobody is giving me any intelligence, right. And then when I got a little bit more, perhaps, wiser in my years and recognizing that nobody knew what I wanted because I never told them. And so this is kind of a common theme that was built within our new strategy that really says, OK, it is up to us to really understand what is it that we need.

And, by the way, I cannot make the same mistakes that I did when I was running the Border Patrol Intelligence Division years ago, because when I found out—they said, hey, we need to know what your intelligence requirements are, I took a lot of smart people and we developed about a 30-pound binder and we handed them 247 intelligence requirements and then I sat back and waited, recognizing that this is not the way to do it, either.

And so we are learning each and every day on how we work within the intelligence community, and we learn from our cooperation and efforts with the Department of Defense on how we can better do that. And we are, each and every day and each and every week, we are getting better about identifying what the intent and capability is of those individuals who wake up each and every day and think about nothing but to do harm to this country. That is our priority mission and we are getting better in that regard, sir, and I appreciate your leadership in helping us do that.

Chairman CARPER. Yes, you bet. Thank you. General Alles.

Mr. DINKINS. Sir, I think you brought up a—I am going to jump in here, Randolph—but I think you brought up a really good point, because we have been talking a lot about the physical border and the security measures, and I can tell you, it has drastically changed, as you have seen. Like I said, I was in Detroit 10 years ago. If you had known that a person was going to cross with drugs, there was a good chance he was still going to get through because we did not have the resources or technology at the border to actually be able to run people's names. You might get the license plate run in time, and that was it. After 9/11, we shut it down by just running people's name. It caused a 12-hour back-up. Now, that same thing takes about 12 seconds. So that has changed.

But, also, we have pushed the border out much farther with engaging our foreign counterparts and international partners so that we know the threat before they get here. Very shortly here, you will be able to—if somebody is sitting in a cave in a place that

wants to do us harm hits “enter” on a visa security application—that is going to be vetted that night, and we will know the threat before we even schedule an interview at the consulate office. So technology has really changed a lot, as well as our international footprint which provides that intelligence. Because if I get investigative leads and I can tell Air and Marine about those leads; they are going to have better success at utilizing those limited resources and man hours to fly to make an interdiction.

So, it is a continuous cycle that we create, and I think all four of us have dedicated 100 percent to it.

Chairman CARPER. OK. Do you want to add anything, General?

Mr. ALLES. I was just going to mention, we do share pretty heavily with the Mexican Government in terms of air tracks. We have Mexican officers in the Air and Marine Operations Center, so if we have nefarious tracks crossing either way, we coordinate interdictions on those tracks. So that is actually quite good cooperation.

On the Northern side, it more falls to our links with Northern Command and the North American Air Defense Command.

Chairman CARPER. OK. This is a question that kind of flows from the work that Senator McCain and seven other Senators are doing, trying to lead the way to a thoughtful, comprehensive immigration reform proposal. A key requirement for us to be able to come to that kind of agreement is really based on what we are talking about here—our border is more secure. What is working? What is not working? What more can we do? You are our customer, in a sense, just like you are a customer of the intelligence agencies that you were talking about earlier.

But my question, would comprehensive immigration reform make it easier to secure the border by creating some additional legal pathways for some—not all, but for some immigrants—thus making it a little easier to focus on the criminal threats? We think a lot about risk and trying to be sensitive to risk and deploying our resources where the risks are greatest, but how would you respond to that question? I do not care who goes first.

Mr. MCALEENAN. I think, in a word, yes.

Mr. FISHER. I agree, Senator. Yes.

Chairman CARPER. OK. General?

Mr. ALLES. Yes, sir. It certainly makes sense to me.

Mr. DINKINS. Absolutely, sir.

Chairman CARPER. All right. OK. Let me just close with—Tom, anything you want to say in closing?

Senator COBURN. No. I want to talk to General Alles afterward.

Chairman CARPER. OK. All right. A thought or two in closing, just to, again, reiterate how much we appreciate your service and the service of those men and women with whom you work and lead. This is important work, important to our country. I believe we are making progress, and you have shown us some pictures that would certainly suggest that. The metrics that we are using, while they are imperfect, I think tend to be encouraging.

I think one of the reasons why the apprehension is going up is the economy is stronger. Two, some folks who live to the South of us think that comprehensive immigration reform might just pass, and I think that is moving some people, as well.

But in terms of the questions, are borders more secure than they have been in the past, I think it is clear that they are, and we have heard that again reiterated today. Are we doing everything that we can do? No. Are we doing everything that we should be doing? No. Are there a number of steps we can take to do an even better job? Yes, and you have given us some indication of what those might be.

Do we have the ability to pay for them? Well, not really. We are running a budget deficit of \$500 billion this year. The President's budget comes out today and it is designed to keep us on a path to rein in the deficit. But we need some additional revenues. We talked a little bit about how user fees might be helpful to enable us to deploy the resources that we discussed here today. And we had a chance to talk about what better intelligence and better use of intelligence can be helpful as a force multiplier.

But I leave the hearing understanding the difficulty, the complexity of the challenges that we all face, not just you, but us, as well. But encouraged that we are learning. We are getting smarter and using pretty good common sense that will enable us to get us closer to the goal that we seek.

One of my favorite sayings is, the road to improvement is always under construction, and that certainly applies here. But the road is improving, and we still have some work to do, and to the extent that we can work on it together, continue to work on it together, we are going to make a whole lot more improvement. And in doing so, I think we may lay the foundation for a thoughtful, comprehensive immigration policy that will actually reduce the desires and need for people to make these illegal entries into our country.

With that having been said, the hearing record will remain open for 15 days for the submission of additional statements and questions. If you get some questions, and I am sure you will, please respond to them promptly and we will look forward to continuing to work with you.

All right. With that, this hearing is adjourned. Again, thank you so much.

[Whereupon, at 11:31 a.m., the Committee was adjourned.]

## A P P E N D I X



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**Chairman Carper's Statement Border Security: Frontline Perspectives on Progress and Remaining Challenges**

WASHINGTON – Today, Senate Homeland Security and Governmental Affairs Committee Chairman Tom Carper (D-Del.) convened the hearing "Border Security: Frontline Perspectives on Progress and Remaining Challenges". For more information on the hearing or to watch a webcast of the hearing, please click [here](#). Chairman Carper's opening statement, as prepared for delivery, follows:

"Good morning everyone. This is the second in a series of hearings that our Committee is holding to review the progress that has been made in securing our borders and to identify what challenges remain to be addressed.

"In the last two months, I had the great privilege of visiting with some of our frontline border security personnel along both the southern and northern borders. I have seen first-hand the dedication, enthusiasm, and expertise of the men and women who put their lives on the line each and every day to keep our nation's borders secure. Today, we have invited their bosses to testify.

"During my trip to Arizona in February, I saw a border that is more secure than it has ever been by any of the measures that we have available to us at the moment. In addition, I spoke with local mayors and law enforcement officials who told me that crime rates in their communities were at their lowest rates in decades, and were continuing to decline.

"I saw parts of the border that had experienced high levels of undocumented immigration as recently as 2006, when the Border Patrol agents I met with told me they used to arrest more than a thousand people every single day. Today, those agents told me that they have a busy day if they arrest 50 people. That is a remarkable development – and clearly a significant change for the better. It is also consistent with the dramatic reductions that we have seen nationwide in arrests of people trying to cross our border illegally, which have reached their lowest levels since the early 1970s.

"I also saw the advanced surveillance technologies such as cameras and radars that we are deploying to serve as force-multipliers. The men and women I spoke with told me that these technologies help them quickly pinpoint where people are trying to cross the border illegally so that agents can be sent in time to make an arrest.

"I heard about a remarkable new radar being tested on a drone, called the VADER, that is providing the Border Patrol with an unprecedented view of the people coming across the border. Another new radar system being tested allows agents to detect physical changes to the ground, such as footsteps, to identify where illegal traffic is heading.

“And while some of these technologies are expensive, I saw an inexpensive and versatile airplane called the C-206, that is easy to fly and maintain and can be used to provide an efficient surveillance platform for agents on the ground. I also heard about inexpensive blimps that can be deployed to help agents detect illegal activity.

“What I have seen gives me great hope that we have made tangible, measurable gains in securing our nation’s borders over the past decade and have a good sense of what we need to do to build on that progress. We have to rely on intelligence, and advanced technology, to identify when and where threats are crossing our borders and empower the frontline officers on the ground.

“Despite the gains we’ve made, we still face significant challenges. First is the fact that arrests cannot be the only metric available to measure the performance of our efforts at the border. Without knowing how many people are actually trying to cross the border, we will never know how effective our efforts to date truly are.

“Our witnesses at the committee’s first border security hearing, while noting the significant progress that has been made over the years in securing our borders, also pointed out that the Department of Homeland Security keeps a variety of internal statistics on illegal activity at and between the ports of entry that it does not make public. I don’t think that this is acceptable.

“It is critical that the Department of Homeland Security do a better job of educating the public—and Congress—on how it measures its effectiveness at the border. And it must include estimates for the number of people trying to cross the border without proper documentation.

“Another one of the challenges that most concerns me is the growing sophistication of the smuggling networks operating along our borders – particularly with regard to drugs.

“The drug cartels are using tunnels, ultralight aircraft, and submarines to avoid detection along our borders. They place spotters on top of our mountains to help them avoid law enforcement. And there are troubling links between organized crime in Mexico and terrorist groups overseas.

“In order to meet these new challenges, and to continue to improve our security efforts, we have to evolve our approach to securing our borders. We have to become smarter in how we deploy our limited resources, and focus on deploying those force multipliers I saw in Arizona.

“In addition, it’s important to note that, while most of the security debate has focused on the issues *between* our ports of entry, much of the illegal traffic comes through our actual ports. Since 9/11, we have made tremendous improvements in how people who are attempting to enter the country are screened.

“Today, all travelers must present a secure ID at the border. They are automatically screened against all of our government’s law enforcement, immigration, and terrorism databases in order to ensure that dangerous people are not allowed to enter.

“But we continue to be faced with significant infrastructure challenges. After falling off after 9/11, travel and trade have been ramping up recently. International arrivals to the U.S. have been increasing by 6 percent a year over the past several years—but staffing at our air, land, and sea ports has not kept up. Our ports of entry need to be modernized, and staffed appropriately, to keep pace with these increases in travel

and trade that we are seeing—and that we should be encouraging. We also need to make our ports of entry work more efficiently, so we can focus our inspections on potential threats rather than legitimate travelers. This includes expanding trusted traveler programs, creating public-private partnerships, and working with the public to better identify wrongdoers. It could also include modernizing our fees so that they are fully paying for the costs of inspecting travelers and goods.

“Lastly, as organized crime continues to evolve and become more sophisticated, we need our criminal investigators to do the same. We must continue to focus our efforts on working in integrated, multi-agency teams, such as the Border Enforcement Security Taskforces. These taskforces allow investigators to collaborate across agency lines, sharing information about known and suspected smugglers in order to generate intelligence about their operations that can be used to attack criminal networks.

“There is no doubt that we have more work left to do. But I believe that any honest assessment of where things stand today will conclude that we have made tremendous gains in securing our borders over the past decade. As the Senate begins to consider comprehensive immigration reform this month, I believe that the conversation will be different from the one we had in 2006. In 2006, the perception that the border was out of control was grounded in historically high rates of illegal immigration.

“Today, illegal immigration is at historic lows. As I have seen firsthand in Arizona and Detroit this year and in California two years ago, the unprecedented taxpayer-funded investments that we have made to secure our borders have worked.

“In fact, yesterday I met with the former Commissioner of Customs and Border Protection, Alan Bersin. He told me that, in his view, the increase in border security has been one of the greatest bipartisan accomplishments over the past 25 years, because it has spanned three administrations and had strong support from members, and Presidents, from both parties. I couldn’t agree more.

“I support the efforts to modernize our immigration laws to make the U.S. more competitive and more secure in the 21<sup>st</sup> Century. And I look forward to working with my colleagues to ensure that any additional investments made to continue to secure our borders is targeted to the kinds of force multipliers that have been proven to be effective, and that represent a good investment.”

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**Opening Statement of Dr. Tom A. Coburn, Ranking Member****“Border Security: Frontline Perspectives on Progress  
and Remaining Challenges”****April 10, 2013**

With the administration releasing its budget today, it is an appropriate time for this committee to be holding a hearing on border security. The federal government – largely DHS – spends tens of billions of taxpayer dollars every year on border security. According to one recent tally, the federal government has spent \$219 billion on border security efforts since 1986.<sup>1</sup>

Over the past decade, we have seen a steady increase in resources going to secure the border. For example, in 2004, just over 28,000 DHS personnel were assigned to patrol the land inspect travelers at ports-of-entry at a total cost of \$5.9 billion.<sup>2</sup> By 2011, that annual cost had nearly doubled to \$11.8 billion and 41,400 personnel.

While there is been some success at reducing illegal immigration, the transnational criminal economy that ships drugs, contraband, humans and cash across U.S. borders is bigger and more organized than ever. The drug trade alone is estimated to bring in nearly \$40 billion in revenue annually for Mexican drug cartels.<sup>3</sup>

Given our nearly \$17 trillion national debt, Congress must conduct more oversight on border security programs and spending.

I recognize that the agencies working along our border have tough jobs, and that thousands of patriotic ICE and CBP officers are out there on the front lines doing their best to protect our borders every day. I look forward to hearing directly from those on the front lines today.

Specifically, I would like to raise two key issues for the witnesses and the Committee to address today.

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<sup>1</sup> Robbins, Ted, “U.S. Grows An Industrial Complex Along the Border,” NPR, 9/12/12, <http://www.npr.org/2012/09/12/160758471/u-s-grows-an-industrial-complex-along-the-border>.

<sup>2</sup> GAO, “DHS’s Progress and Challenges in Securing US Borders,” GAO-13-414T, March 14, 2013.

<sup>3</sup> Keefe, Patrick Radden, “Cocaine Incorporated,” New York Times, 6/15/2012, <http://www.nytimes.com/2012/06/17/magazine/how-a-mexican-drug-cartel-makes-its-billions.html?pagewanted=all&r=0>, accessed April 8, 2013.



First, how and when will we know if our border is secure? According to GAO's testimony at our committee hearing last month, DHS continues to face challenges assessing the effectiveness of its work to secure the border. And I understand that CBP and DHS continue to work to develop appropriate metrics to measure border security. Secretary Napolitano has openly questioned whether it's even possible to develop such a measurement.

I would like to hear from our witnesses from the front lines tell us what they think are appropriate metrics. And I would like to hear from Border Patrol Chief Fisher when Congress can expect to see CBP's new metric for border security.

Second, I would like our witnesses to address whether we are using our limited resources effectively to secure the border. I remain concerned that DHS has spent billions on technology to secure the border, but much of it has been wasted.

Everyone one in this room knows about the failed SBI-Net program that cost the government nearly a billion dollars before it was canceled. Likewise, CBP has spent nearly \$240 million on a fleet of unmanned drones (and recently indicated it would like to spend \$443 more) despite the DHS Inspector General finding that CBP was all but completely incapable of responsibly operating its drone program.

Securing our borders is one of the federal government's clearest responsibilities—securing our common defense and upholding the rule of law. Yet despite more than \$219 billion spent on border security over the past three decades, we still do not know whether our borders are secure.

I look forward to hearing from our witnesses how we are going to solve this problem.

TESTIMONY OF

RANDOLPH ALLES  
Assistant Commissioner  
Office of Air and Marine

MICHAEL J. FISHER  
Chief  
U.S. Border Patrol

KEVIN MCALEENAN  
Acting Deputy Commissioner

and

U.S. Customs and Border Protection  
Department of Homeland Security

BEFORE

Senate Committee on Homeland Security and Governmental Affairs

ON

“Border Security: Frontline Perspectives on Progress and Remaining Challenges”

April 10, 2013  
Washington, DC

Chairman Carper, Ranking Member Coburn, and distinguished members of the Committee, it is an honor to appear before you today to discuss the role of U.S. Customs and Border Protection (CBP) in securing America's borders, a role that we share with our federal, state, local, tribal, and international partners.

We are here today to discuss how border security has changed over the past ten years, not only in terms of resources, infrastructure, and operations, but also in how we assess and measure the state of an ever-changing border environment. Some have suggested that levels of security can be measured in terms of linear miles of "operational control," a tactical term once used by the Border Patrol to allocate resources among sectors and stations along the border. We do not use this term as a measure of border security because the complex nature of the multitude of different border conditions cannot be described by a single objective measure. Although an indicator of success, we cannot measure border security solely based on crime rates, because even the safest communities in America have some crime. It is not merely a measure of resources, because even the heaviest concentration of fencing, all weather roads, 24-hour lighting, surveillance systems, and Border Patrol agents cannot seal the border completely.

For border communities, important barometers for success are security and facilitation of travel and trade. A secure border means living free from fear in their towns and cities. It means an environment where businesses can conduct cross-border trade and flourish. For other American communities, it means enjoying the benefits of a well-managed border that facilitates the flow of legitimate trade and travel. Our efforts over the past ten years, combined with those of our international, federal, state, local, and tribal partners, have transformed the border and assist in continuing to keep our citizens safe, our country defendable from an attack, and promote economic prosperity.

For CBP, securing our borders means first having the visibility to see what is happening on our borders, and second, having the capacity to respond to what we see. We get visibility through the use of border surveillance technology, personnel, and air and marine assets. Our ability to respond is also supported by a mix of resources including personnel, tactical infrastructure, and air and marine assets.

Every day as part of DHS, CBP, along with the U.S. Coast Guard, Transportation Security Administration, U.S. Citizenship and Immigration Services, and U.S. Immigration and Customs Enforcement undertake countless activities to expedite, facilitate, and secure the flow of goods and people across U.S. borders. Working collaboratively with other federal, state, local, tribal, and international partners, we facilitate the flow of lawful travel and commerce and secure our Nation's borders.

### **The Past Ten Years - Unprecedented Resources at Our Borders**

Thanks to your support, the border is more secure than ever before. Since its inception, DHS has dedicated historic levels of personnel, technology, and infrastructure in support of our border security efforts. Resource levels, when considered with other factors, remain essential aspects in helping to assess the security of our borders.

#### *Law Enforcement Personnel*

Currently, the Border Patrol is staffed at the highest level in its 88-year history. The number of Border Patrol agents (BPAs) doubled, from approximately 10,000 in 2004 to more than 21,000 agents today. Along the Southwest border, DHS has increased the number of law enforcement on the ground from approximately 9,100 BPAs in 2001 to nearly 18,500 today. At our Northern border, the force of 500 agents that we sustained ten years ago has grown to more than 2,200 agents. Law enforcement capabilities at the ports of entry (POEs) were also reinforced. To support our evolving, more complex mission since September 11, 2001, the number of CBP officers (CBPOs) ensuring the secure flow of people and goods into the nation increased from 17,279 customs and immigration inspectors in 2003, to more than 21,000 CBPOs and 2,400 agriculture specialists today. These frontline employees facilitated \$2.3 trillion in trade in Fiscal Year (FY) 2012, and welcomed a record 98 million air travelers, a 12 percent increase since FY 2009, further illustrating the critical role we play not only with border security, but with economic security and continued growth.

#### *Infrastructure and Technology*

In addition to increasing our frontline personnel, DHS also made unprecedented investments in border security infrastructure and technology. Technology is the primary driver of all land, maritime and air domain awareness—and this will become only more apparent as CBP faces future threats. Technology assets such as integrated fixed towers, mobile surveillance units, and thermal imaging systems act as force multipliers increasing agent awareness, efficiency, and capability to respond to potential threats. As we continue to deploy border surveillance technology, particularly along the Southwest border, these investments allow CBP the flexibility to shift more BPAs from detection duties to interdiction and resolution of illegal activities on our borders.

At our POEs, CBP has aggressively deployed Non-Intrusive Inspection (NII) and Radiation Portal Monitor (RPM) technology to help identify contraband and weapons of mass effect. Prior to September 11, 2001, only 64 large-scale NII systems, and not a single RPM, were deployed to our country's borders. Today CBP has 310 NII systems and 1,460 RPMs deployed. The result of this investment in resources is the capacity for CBP to scan 99 percent of all containerized cargo at seaports and 100 percent of passenger and cargo vehicles at land borders for radiological and nuclear materials upon arrival in the United States.

The implementation of the Western Hemisphere Travel Initiative (WHTI) involved a substantial technology investment in the land border environment that continues to provide both facilitation and security benefits. Today, as a result of WHTI, more than 19 million individuals obtained

Radio Frequency Identification (RFID) technology-enabled secure travel documents. These documents are more secure as they can be verified electronically in real-time back to the issuing authority, to establish identity and citizenship; they also reduce the average vehicle processing time by 20 percent.

A direct result of the increased use of RFID-enabled secure travel documents is CBP's capability to increase the national law enforcement query rate, including the terrorist watch list, to more than 98 percent. By comparison, in 2005, CBP performed law enforcement queries in the land border environment for only 5 percent of travelers. In terms of facilitation, CBP has also capitalized upon these notable improvements by establishing active lane management at land border ports, a process analogous to the management of toll booths on a highway. Through active lane management, CBP can adjust lane designations as traffic conditions warrant to better accommodate trusted travelers and travelers with RFID-enabled documents.

CBP continues to optimize the initial investment in the land border by leveraging new technologies and process improvements across all environments. Since 2009, a variety of mobile, fixed, and tactical hybrid license plate reader solutions have been deployed to 40 major southern border outbound crossings and 19 Border Patrol checkpoints. These capabilities have greatly enhanced CBP's ability to gather intelligence and target suspected violators by linking drivers, passengers and vehicles across the core mission areas of inbound, checkpoint and outbound. In the pedestrian environment, automated gates coupled with self-directed traveler kiosks now provide document information, query results and biometric verification in advance of a pedestrian's arrival to CBPOs.

CBP not only supports security efforts along the nearly 7,000 miles of land borders, but also supplements efforts to secure the Nation's 95,000 miles of coastal shoreline. CBP's Office of Air and Marine (OAM) has 269 aircraft, including 10 Unmanned Aircraft Systems (UAS), and 293 patrol and interdiction vessels that provide critical aerial and maritime surveillance and operational assistance to personnel on the ground. Our UAS, six of which operate along the Southwest border, flew more than 5,700 hours in 2012, the most in the program's history. Since the formation of OAM within CBP eight years ago, CBP transformed a border air wing composed largely of light observational aircraft into a modern air and maritime fleet capable of a broad range of detection, surveillance and interdiction capabilities. This fleet is extending CBP's detection and interdiction capabilities, extending our border security zones, and offering greater opportunity to stop threats prior to reaching the nation's shores. Further synthesizing the technology, CBP's Air and Marine Operations Center (AMOC) integrates the surveillance capabilities of its federal and international partners to provide domain awareness for the approaches to American borders, at the borders, and within the interior of the United States.

CBP is also looking to the future by working closely with the DHS Science & Technology Directorate to identify and develop technology to improve our surveillance and detection capabilities in our ports and along our maritime and land borders. This includes investments in tunnel detection tactical communication upgrades, and tunnel activity monitoring technology, low-flying aircraft detection and tracking systems, maritime data integration/data fusion capabilities at AMOC, cargo supply chain security, and border surveillance tools tailored to

Southern and Northern borders, including unattended ground sensors/tripwires, upgrades for mobile Surveillance Systems, camera poles, and wide-area surveillance.

### **Indicators of Success**

DHS considers a number of indicators and outcomes to evaluate security efforts at our borders, including factors such as resource deployment, crime rates in border communities, and apprehensions. While enforcement statistics and economic indicators point to increased security and an improved quality of life, no single metric can conclusively define the state of border security. Any individual metric can only capture one element of border security and none captures the true state of security along our borders. Rather than focus on any particular metric, our focus is on the enhancement of our capabilities, ensuring that we have tools that will lead to an increased probability of interdiction in high activity areas along our Southwest border.

This deployment of resources over the past ten years has, by every traditional measure, led to unprecedented success. In FY 2012, Border Patrol apprehension activity remained at historic lows with apprehensions in California, Arizona and New Mexico continuing a downward trend. In FY 2012, the Border Patrol recorded 364,768 apprehensions nationwide. In FY 2012 apprehensions were 78 percent below their peak in 2000, and down 50 percent from FY 2008. An increase in apprehensions was noted in south Texas, specifically of individuals from Central American countries, including El Salvador, Guatemala, and Honduras. However, significant border-wide investments in additional enforcement resources and enhanced operational tactics and strategy enabled CBP to address the increased activity. Today, there are more than 6,000 BPAs in South Texas, an increase of more than 80 percent since 2004.

At POEs in FY 2012, CBPOs arrested nearly 7,700 people wanted for serious crimes, including murder, rape, assault and robbery. CBPOs also stopped nearly 145,000 inadmissible aliens from entering the United States through POEs. Outcomes resulting from the efforts of the CBP National Targeting Center and Immigration Advisory Program, include the prevention of 4,199 high risk travelers, who would have been found inadmissible from boarding flights destined for the United States, an increase of 32 percent compared to FY 2011. These efforts not only allow CBP to mitigate risk before a potential threat arrives at a port of entry, but they also make the travel process more efficient and economical for the U.S. Government and the private sector by reducing or eliminating the cost of returning inadmissible travelers to their point of origin.

We see increasing success in our seizures as well. From FY 2009 to 2012, CBP seized 71 percent more currency, 39 percent more drugs, and 189 percent more weapons along the Southwest border compared to FY 2006 to 2008. Nationwide, CBP officers and agents seized more than 4.2 million pounds of narcotics and more than \$100 million in unreported currency through targeted enforcement operations. On the agricultural front, from FY 2003 to FY 2012, CBP interceptions of reportable plant pests in the cargo environment increased more than 48 percent to 48,559 interceptions in FY 2012. In addition to protecting our Nation's ecosystems and associated native plants and animals, these efforts are important to protecting our Nation's economy as scientists estimate that the economic impacts from invasive species exceed \$1 billion annually in the United States.

Another indicator of the success of our combined law enforcement efforts is reduced crime rates along the Southwest border. According to 2010 FBI crime reports, violent crimes in Southwest border states have dropped by an average of 40 percent in the last two decades. More specifically, all crime in the seven counties that comprise the South Texas area is down 10 percent from 2009 to 2011. Between 2000 and 2011, four cities along the Southwest border – San Diego, McAllen, El Paso, and Tucson – experienced population growth, while also seeing significant decreases in violent crime.

These border communities have also seen a dramatic boost to their economies in recent years. In FY 2012, more than \$176 billion in goods entered through the Laredo and El Paso, Texas POEs compared to \$160 billion in FY 2011. Additionally, the import value of goods entering the United States through Texas land ports has increased by 55 percent between FY 2009 and FY 2012. In Laredo alone, imported goods increased in value by 68 percent. Arizona is also a significant source for the flow of trade. In both FY 2011 and FY 2012, \$20 billion entered through Arizona POEs.

Communities along the Southwest border are among the most desirable places to live in the nation. Forbes ranked Tucson the number one city in its April 2012 “Best Cities to Buy a Home Right Now” and in February, 2012, the Tucson Association of Realtors reported that the total number of home sales was up 16 percent from the same month the previous year. Tucson also joins Las Cruces, New Mexico on Forbes’ list of “25 Best Places to Retire.” These Southwest border communities are also safe. *Business Insider* published a list of the top 25 most dangerous cities in America, and again, none of them is located along the Southwest border. In fact, *CQ Press* named El Paso the safest large city in America for the past three years.

The successes of a secure border are also reflected in key national economic measures. In 2011, secure international travel contributed to overseas travelers spending \$153 billion in the United States—an average of \$4,300 each—resulting in a \$43 billion travel and tourism trade surplus. In addition, secure global supply chains promoted a 5 percent growth in import values reaching \$2.3 trillion in FY 2012 and is expected to exceed previous records in the air, land, and sea environments this year. CBP collects tens of billions of dollars in duties, providing a significant source of revenue for our Nation’s treasury. These efforts complement the strategies implemented by the President’s National Export Initiative (NEI) which resulted in the resurgence of American manufacturers, who have added nearly 500,000 jobs since January 2010, the strongest period of job growth since 1989<sup>1</sup>. Additionally, other efforts to boost trade and exports are producing results. In 2011, United States exports reached record levels, totaling more than \$2.1 trillion, 33.5 percent above the level of exports in 2009. United States exports supported nearly 9.7 million American jobs in 2011, a 1.2 million increase in the jobs supported by exports since 2009. Furthermore, over the first two years of the NEI, the Department of Commerce recruited more than 25,000 foreign buyers to United States trade shows, resulting in about \$1.7 billion in export sales. The Administration’s National Travel and Tourism Strategy calls for 100 million international visitors a year by the end of 2021, bringing more than \$250 billion in estimated spending.

<sup>1</sup> The President’s Export Council Compilation of the Council’s Recommendations during the First Term of the Obama Administration, 2010-2012, which uses stats from the Bureau of Labor Statistics. Available at [http://trade.gov/pec/docs/PEC\\_Term\\_Report\\_2010-2012\\_12062012.pdf](http://trade.gov/pec/docs/PEC_Term_Report_2010-2012_12062012.pdf)

### **Protecting America from Afar: Secure Borders Expanded**

Although enforcement statistics and economic indicators point to increased security and an improved quality of life, many of these outcomes are a result of CBP's intelligence-based framework to direct its considerable resources toward a dynamic and evolving threat. CBP gathers and analyzes this intelligence and data to inform operational planning and effective execution.

CBP's programs and initiatives reflect DHS's ever increasing effort to extend its security efforts outward. This ensures that our POEs are not the last line of defense, but one of many.

#### *Securing Travel*

On a typical day, CBP welcomes nearly a million travelers at our air, land, and sea POEs. The volume of international air travelers increased by 12 percent from 2009 to 2012 and is projected to increase 4 to 5 percent each year for the next five years. CBP continues to address the security elements of its mission while meeting the challenge of increasing volumes of travel in air, land, and sea environments, by assessing the risk of passengers from the earliest, and furthest, possible point, and at each point in the travel continuum.

As a result of advance travel information, CBP has the opportunity to assess passenger risk long before a traveler arrives at a POE. Before an individual travels to the United States, CBP has the opportunity to assess their risk via the Electronic System for Travel Authorization for those traveling under the Visa Waiver Program, or as part of the inter-agency collaborative effort to adjudicate and continuously vet visas, which are issued by the Department of State. CBP has additional opportunities to assess a traveler's risk when they purchase their ticket and/or make a reservation, and when they check-in.

Before an international flight departs for the United States from the foreign point of origin, commercial airlines transmit passenger and crew manifest information to CBP. CBP's National Targeting Center then reviews traveler information to identify travelers who could be determined inadmissible upon arrival. As part of its Pre-Departure and Immigration Advisory/Joint Security Programs, CBP coordinates with the carriers to prevent such travelers from boarding flights bound for the United States. From FY 2010 through FY 2012, utilizing these programs, CBP prevented 8,984 high risk travelers from boarding flights, a security effort that also reduces or eliminates resources which are dedicated to returning inadmissible travelers to their points of origin, and instead enables those resources to be utilized on facilitating legitimate travel.

Additionally, CBP's work on business innovations and enhanced partnerships with private industry helped lead to the expansion of Trusted Traveler Programs like Global Entry. More than 1.7 million people, including more than 414,000 new members this fiscal year, have enrolled in Trusted Traveler Programs, which allow expedited clearance for pre-approved, low-risk air travelers upon arrival in the United States. When comparing 2011 and 2012, CBP processed 500,000 more passengers using Global Entry and there were 689,000 more kiosk uses



in 2012. Collaboration efforts between CBP and TSA create increased security and additional efficiencies to better serve the traveling public. TSA's PreCheck program automatically extends eligibility to current U.S. citizen members of CBP's Trusted Traveler Programs. This partnership enables TSA to extend expedited screening benefits for these qualifying trusted travelers, and allows TSA to focus on security and unknown risks, and contributes to the overall homeland security mission of securing and facilitating legitimate travel.

#### *Securing Trade and the Supply Chain*

In FY 2012, CBP processed 25.3 million cargo containers through the Nation's POEs, an increase of four percent from 2011, with a trade value of \$2.3 trillion. The United States is the world's largest importer and exporter of goods and services. To address increasing travel volumes, CBP assesses the risk of cargo bound for the United States, whether by air, land, or sea, at the earliest point of transit.

Receiving advanced shipment information allows CBP to assess the risk of cargo before it reaches a POE. Since 2009, the Importer Security Filing (ISF) and the Additional Carrier Requirements regulation have required importers to supply CBP with an electronically-filed ISF consisting of advance data elements 24 hours prior to lading for cargo shipments that will be arriving into the United States by vessel. These regulations increase CBP's ability to assess the scope and accuracy of information gathered on goods, conveyances, and entities involved in the shipment of cargo to the United States via vessel.

Since 2010, CBP has implemented the Air Cargo Advance Screening (ACAS) pilot, which enables CBP and the Transportation Security Administration (TSA) to receive advance security filing cargo data and help identify cargo shipments inbound to the United States via the air environment that may be high risk and require additional physical screening. Identifying high-risk shipments as early as possible in the air cargo supply chain provides CBP and TSA an opportunity to conduct a comprehensive review of cargo data while facilitating the movement of legitimate trade into the United States. Benefits to ACAS pilot participants include: efficiencies by automating the identification of high risk cargo for enhanced screening before it is consolidated and loaded on aircraft and reduction in paper processes related to cargo screening requirements which may increase carrier efficiency.

CBP also has a presence at foreign ports to add another layer of security to cargo bound for the United States. The Container Security Initiative (CSI) places CBPOs at foreign ports to perform pre-screening of containers before those containers are placed on a United States-bound vessel. The CSI program has matured since its inception in 2002 through increased partnership with host country counterparts and advances in targeting and technology. This allowed CBP to decrease the number of CBPOs on the ground at CSI ports, while maintaining security outcomes. However, more than 80 percent of maritime cargo destined for the United States originates in, or transits through, CSI locations. In cooperation with host country counterparts, high-risk cargo is examined prior to lading on a vessel destined to the United States. Additionally, CBP screens 100 percent of all cargo manifests prior to arrival in the United States either through CSI locations or at the domestic port of entry for cargo that does not pass through a CSI port.

*Securing the Source and Transit Zones*

The effort to push out America's borders is also reflected by CBP's efforts to interdict narcotics and other contraband long before it reaches the United States. Since 1988, CBP Office of Air and Marine (OAM) and the former U.S. Customs Service, has provided Detection and Monitoring capabilities for the Source and Transit Zone mission. The CBP OAM P-3 Orion Long Range Tracker (LRT) and the Airborne Early Warning (AEW) aircraft provide air and maritime surveillance, detecting suspect smugglers who use a variety of conveyances.

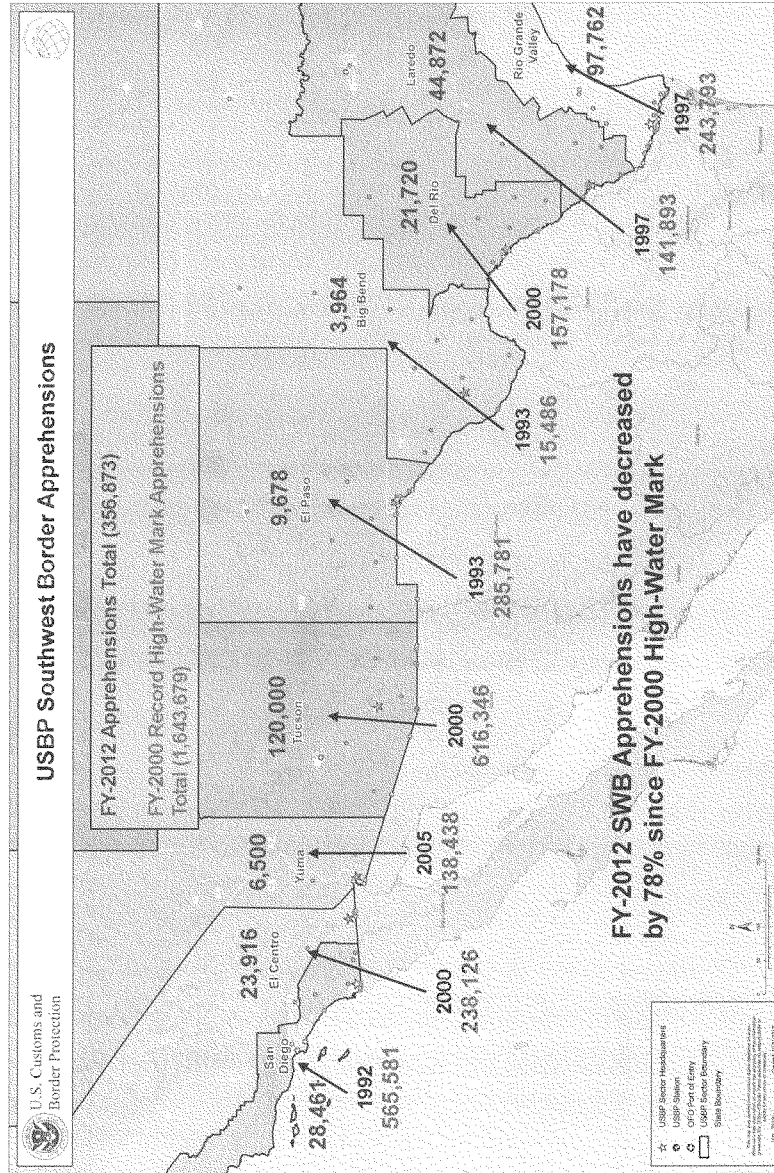
Transnational Criminal Organizations (TCOs) smuggle various contraband towards the United States Borders and Arrival Zones. The CBP P-3 aircraft have been instrumental in reducing the flow of contraband from reaching the Arrival Zones, by detecting the suspect aircraft and vessels while still thousands of miles away from America's border. In FY 2012, P-3 crews were involved in the interdiction of 117,103 pounds of cocaine and 12,745 pounds of marijuana. In the first quarter of 2013, P-3 crews have been involved in the interdiction of 38,378 pounds of cocaine. Providing direction to interdiction assets and personnel to intercept suspects long before reaching the United States, the CBP P-3 aircraft and crew provide an added layer of security, by stopping criminal activity before reaching our borders.

**Conclusion**

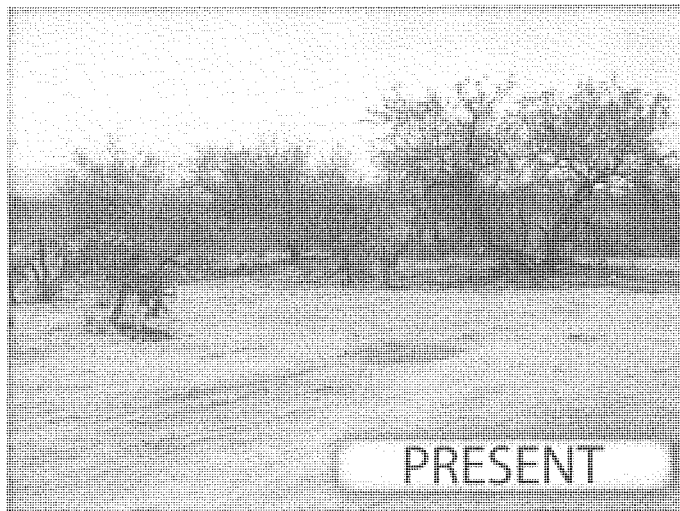
Over the past ten years, DHS has undertaken an unprecedented effort to secure our border and transform our Nation's immigration enforcement system into one that focuses on public safety, national security, and on the integrity of the immigration system. DHS deployed historic levels of personnel, technology and infrastructure to the Southwest border to reduce the flow of illicit persons, drugs, cash, and weapons and to expedite legal trade and travel through trusted traveler and trade initiatives.

With the support of Congress, CBP has made significant progress in securing the borders through a multi-layered approach using a variety of tools at our disposal. CBP will continue to work with DHS and our federal, state, local, tribal, and international partners, to strengthen border security. We must remain vigilant and focus on building our approach to position CBP's greatest capabilities to combat the greatest risks that exist today, to be prepared for emerging threats, and to continue to build a sophisticated approach tailored to meet the challenges of securing a 21st century border. At the same time, Secretary Napolitano has made it clear that Congress can help by passing a commonsense immigration reform bill that will allow CBP to focus its resources on the most serious criminal actors threatening our borders.

Chairman Carper, Ranking Member Coburn, and distinguished Members of the Committee, thank you for this opportunity to testify about the work of CBP and our efforts in securing our borders. We look forward to answering your questions.

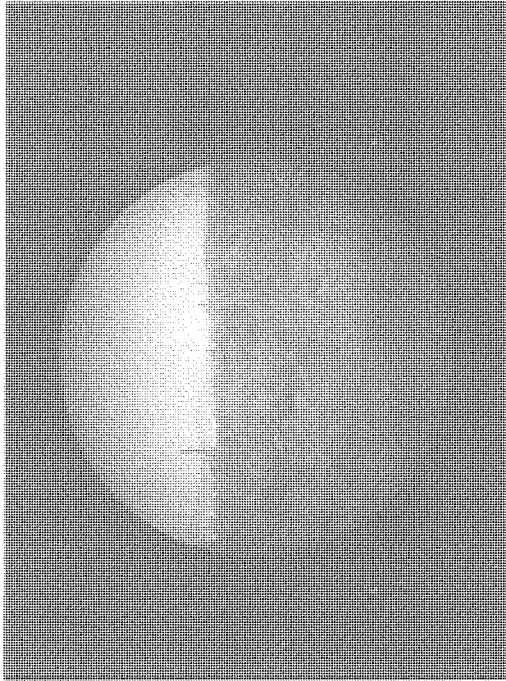


KING ANVIL RANCH  
BEFORE AND AFTER



# Night Vision Detection

**Then**



**Now**

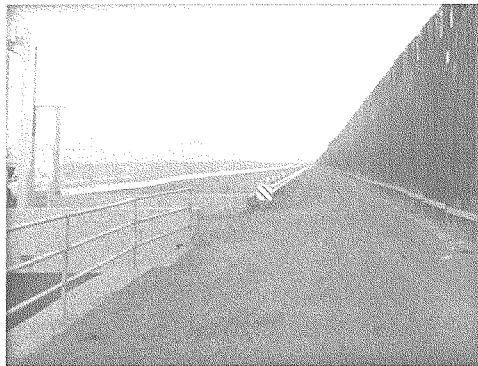


# Infrastructure

**Before**



**After**





# U.S. Immigration and Customs Enforcement

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STATEMENT

OF

JAMES A. DINKINS  
EXECUTIVE ASSOCIATE DIRECTOR  
HOMELAND SECURITY INVESTIGATIONS

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

“BORDER SECURITY: FRONTLINE PERSPECTIVES  
ON PROGRESS AND REMAINING CHALLENGES”

BEFORE THE

UNITED STATES SENATE

COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS

Wednesday, April 10, 2013  
342 Dirksen Senate Office Building  
9:30 a.m.

## INTRODUCTION

Chairman Carper, Ranking Member Coburn, and distinguished members of the Committee:

On behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to appear today to discuss the significant progress U.S. Immigration and Customs Enforcement (ICE) has made over the past decade to successfully secure the border, our strategic approach to interior enforcement, our work investigating, disrupting and dismantling transnational criminal organizations (TCO), and our path forward.

Over the last ten years, we have made tremendous strides and realized considerable enforcement achievements. For the past three years, for example, ICE Homeland Security Investigations (HSI) has achieved a record number of criminal arrests, which culminated with fiscal year (FY) 2012 increases of nearly 25 percent over FY 2010. These record arrests in FY 2011 and FY 2012 followed from successful investigations of commercial fraud, child exploitation, strategic/counter-proliferation, human trafficking, and financial crimes.

Today, ICE is the largest and principal criminal investigative agency within the Department of Homeland Security (DHS) and one of the three DHS agencies charged with administering and enforcing the nation's immigration laws.

### **Investigative Accomplishments over the Past 10 Years**

Since its inception, ICE has achieved impressive results protecting our nation's borders and enhancing public safety. ICE now has more than 20,000 employees with a presence in all 50 states, the District of Columbia, and 48 foreign countries, representing DHS's largest investigative law enforcement presence abroad. In the past ten years, ICE has become the



second-largest federal criminal investigative agency, with responsibility for enforcing over 600 federal statutes. We promote homeland security and public safety through the enforcement of federal laws governing border control, customs, trade and immigration.

ICE has improved border security by increasing our presence on the Southwest Border and strengthening our relationships with our law enforcement partners both domestically and internationally. For example, we established the Border Enforcement Security Task Force (BEST) program, which leverages over 765 federal, state, local, and foreign law enforcement agents and officers representing over 100 agencies. Today, we have 35 BESTs located across 16 states and Puerto Rico. To address threats internationally, we also created Transnational Criminal Investigative Units (TCIUs), which are bilateral, multi-disciplined investigative units led by HSI with international law enforcement membership. Currently, we have 12 TCIUs operating in 10 countries to promote investigative cooperation with host governments.

Since the creation of DHS, ICE has also taken a leading role in coordinating domestic and international law enforcement action among our law enforcement partners through several multi-agency centers that we lead – including the National Intellectual Property Rights Coordination Center, the Export Enforcement Coordination Center, the National Bulk Cash Smuggling Center, and the Cyber Crimes Center, among others – and by our robust participation in task forces led by other agencies, such as the FBI-led Joint Terrorism Task Forces and the Organized Crime Drug Enforcement Task Forces.

In an effort to ensure measurable progress and achievement in the most efficient manner possible, in FY 2011, ICE launched the Significant Case Review Process. This process prioritizes our investigative resources to dismantle and disrupt the most egregious and dangerous

criminal organizations and individuals. Since FY 2011, as a result of our work, we have disrupted and/or dismantled over 175 TCOs and individuals.

ICE-HSI has also seen a significant increase in seizures of currency, counterfeit goods, and many other forms of contraband. In FY 2012, HSI initiated over 43,000 new investigations and made more than 32,000 criminal arrests around the world. During this same period, we set an agency record with the seizure of \$774 million in currency and negotiable instruments, more than double the amount seized by HSI during the previous year, as well as the seizure of 1.5 million pounds of narcotics and other dangerous drugs, and \$175 million worth of counterfeit goods.

In FY 2012, we also focused on the victims of the criminal acts we investigate and recorded the rescue of approximately 650 victims who were either hostages or trafficking victims, including 250 of whom were victims of child sexual exploitation.

#### **Illicit Pathways Attack Strategy (IPAS)**

Last year, ICE developed the Illicit Pathways Attack Strategy (IPAS). IPAS supports the Administration's Strategy to Combat Transnational Organized Crime, an initiative launched in July 2011, which seeks to integrate federal resources in order to combat transnational organized crime and related threats to national security and public safety while urging foreign partners to do the same.

As a key partner in this effort, ICE's IPAS is working to identify and dismantle high risk smuggling and trafficking routes, pathways, and integrated networks that support Transnational Organized Crime (TOC). ICE's IPAS initially focused on combating human smuggling. Future iterations of the strategy will focus on weapons trafficking, human trafficking, intellectual

property theft, cybercrime, illicit finance, and counter-proliferation. IPAS is a coordinated strategy to identify illicit pathways and attack criminal networks at multiple locations along the illicit travel continuum. The concept involves:

- Attacking criminal networks within and beyond our borders;
- Prioritizing networks and pathways that pose the greatest threats;
- Participating in and facilitating robust interagency engagement; and
- Pursuing a coordinated, regional approach that leverages international partners.

Our first IPAS focused on high-risk human smuggling in the Western Hemisphere in order to identify and target human smuggling organizations and their pathways across the globe. ICE-HSI is the lead federal agency responsible for investigating human smuggling, and this core mission function directly impacts national security, public safety, and human dignity. Human smuggling is also a crime that converges with other threats. For example, many human smuggling networks rely upon corrupt public officials to facilitate their efforts. Mexican drug cartels earn large quantities of money by charging human smugglers for permission to use their drug routes to enter the United States.

These networks also are involved in bulk cash smuggling, trade-based money laundering, illicit finance schemes, and the use of hawalas and other money or value transfer services to move, transfer, and launder their proceeds. In November 2012, for instance, our special agents in Miami arrested two individuals for alien smuggling as part of Operation Rota Caribe, an Extraterritorial Criminal Travel Strike Force and IPAS-designated human smuggling investigation. The individuals owned and operated “stash” houses in the Bahamas, and smuggled migrants into the South Florida area. On March 21, 2013, these two individuals were sentenced to serve 60 months and 36 months, respectively, in prison.

In January 2013, as part of the same investigation, two additional individuals pled guilty in the U.S. District Court for the Southern District of Florida to multiple counts of alien smuggling for financial gain. They operated a travel agency in Brazil where they recruited and facilitated smuggling ventures from Brazil through the Bahamas to the United States. They were also sentenced on March 21, 2013, to sentences of 60 months and 46 months, respectively.

The IPAS combines traditional law enforcement investigations and prosecutions with efforts to overtly disrupt and deter the underlying criminal activity. Experience has shown that if we simply try to disrupt criminal activity by focusing law enforcement action in one geographic area, criminal organizations will quickly adapt and shift to an area where detection or interdiction by law enforcement is less likely. HSI's goal is to not only stop individual criminals, but also to stop or reduce the criminal activity and dismantle the entire criminal enterprise.

#### **Strategic Approach to Worksite and Visa Overstay Enforcement**

Two important areas where our strategic approach to enforcing border security has yielded positive results are investigations involving worksite violations and visa overstays. HSI conducts criminal investigations of employers who exploit or abuse their employees and who have a history of knowingly and repeatedly employing an illegal workforce. This type of employer violation will often involve alien smuggling, document fraud, human rights abuses or other criminal, immigration or customs violations having a direct nexus to the employment of unauthorized workers. HSI is pursuing a comprehensive worksite enforcement strategy to deter unlawful employment and drive a culture of compliance with the nation's employment-related immigration laws. In April 2009, HSI released a revised worksite enforcement strategy that

focuses on enforcement (criminal investigations of employers), compliance (the use of Form I-9 inspections and debarment) and outreach to create a culture of compliance.

The success of our approach to worksite enforcement is evident in the results. In FY 2012, HSI initiated a record 3,904 worksite enforcement investigations, more than any previous fiscal year dating back to FY 2007. In FY 2012, HSI criminally arrested 240 employers for worksite-related violations, surpassing the previous high of 221 in FY 2011. During that same period, 165 employers were indicted and 150 employers were convicted. In FY 2012, HSI also issued a record 3,004 notices of inspection to employers, which surpassed the prior year's record of 2,496 and was greater than ten times more than the 254 notices of inspections served in 2007. In FY 2012, ICE issued 495 final orders – documents requiring employers to cease violating the law and directing them to pay fines – totaling nearly \$12.5 million in fines, compared to the two issued for just over \$26,500 in FY 2007. The \$12.5 million for fines imposed last fiscal year represents the highest amount of fines imposed for a FY since the creation of ICE in 2003.

Finally, in FY 2012, ICE assisted in improving the integrity of the federal contracting and benefit processes by debarring a record 142 businesses and 234 individuals—preventing unscrupulous companies and serious individual offenders from engaging in future business with and receiving benefits from the federal government. Through this aggressive approach to worksite enforcement, ICE is bringing employers into compliance with the law.

HSI prioritizes the criminal prosecution of employers who knowingly hire undocumented workers, abuse and exploit their workers, engage in the smuggling or trafficking of their alien workforce, or facilitate document or benefit fraud. Our special agents are trained to look for

evidence of these activities and we work closely with the U.S. Attorneys' Offices to obtain indictments and prosecute offenders.

Beyond worksite enforcement, ICE-HSI plays an important role in enforcing the law related to visas, including working with the U.S. Department of State in combating visa fraud. Our Compliance Enforcement Unit (CEU), created in 2003, was the first national program dedicated to the enforcement of nonimmigrant visa violations to help confront the problem of visa overstays and other status violations, thereby enhancing national security. In 2010, HSI expanded the responsibilities and mission of the CEU by establishing the Counterterrorism and Criminal Exploitation Unit (CTCEU).

The CTCEU's goal is to prevent terrorists and other criminals from exploiting the nation's immigration system through fraud. This is accomplished through broad intelligence-driven criteria on subjects that exhibit similar characteristics of known violent extremist organizations and their participants. We also use specific intelligence-driven criteria, such as known terrorist travel routes, which focuses HSI investigations on those subjects that are considered to pose a higher risk to national security. HSI's CTCEU accomplishes its mission by reviewing the immigration status of known and suspected terrorists, combating criminal exploitation of the Student and Exchange Visitor Program, and leveraging HSI's expertise with partnering agencies in identifying national security threats. In FY 2012, for instance, CTCEU initiated 3,203 national security investigations on visa overstays/violators, which resulted in 1,374 arrests, of which 123 were criminal arrests.

**CONCLUSION**

Thank you again for the opportunity to appear before you to discuss the progress we have made to combat public safety and national security threats, including TCOs, over the past ten years, and to outline for the committee just a few examples of our strategic approach to border security. I am confident that we will continue to build upon the momentum we have generated as a result of our considerable investigative achievements.

I would be pleased to answer any questions you may have.



**STATEMENT OF COLLEEN M. KELLEY  
NATIONAL PRESIDENT  
NATIONAL TREASURY EMPLOYEES UNION**

**ON**

**BORDER SECURITY: FRONTLINE PROSPECTIVES ON  
PROGRESS AND REMAINING CHALLENGES**

**BEFORE THE**

**COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS**

**U. S. SENATE**

**April 10, 2013**



Chairman Carper, Ranking Member Coburn, distinguished members of the Committee, thank you for the opportunity to provide this testimony. As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 24,000 Customs and Border Protection (CBP) Officers and trade enforcement specialists who are stationed at 329 land, sea and air ports of entry (POEs) across the United States. CBP employees' mission is to protect the nation's borders at the ports of entry from all threats while facilitating legitimate travel and trade. CBP trade compliance personnel enforce over 400 U.S. trade and tariff laws and regulations in order to ensure a fair and competitive trade environment pursuant to existing international agreements and treaties, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money.

In FY 2012, CBP seized more than 4.2 million pounds of narcotics across the country. In addition, the agency seized more than \$100 million in unreported currency through targeted enforcement operations. At ports of entry in FY 2012, CBP officers arrested nearly 7,700 people wanted for serious crimes, including murder, rape, assault and robbery. Officers also stopped nearly 145,000 inadmissible aliens from entering the U.S. through ports of entry. Inadmissibility grounds included immigration violations, health, criminal, and national security related grounds. Additionally, CBP agriculture specialists conducted more than 1.6 million interceptions of prohibited plant materials, meat, and animal byproducts at ports of entry while also stopping nearly 174,000 potentially dangerous pests.

CBP uniformed and non-uniformed personnel at the air, sea and land ports of entry not only ensure a secure border, but also collect significant revenue through trade compliance and enforcement. CBP is a revenue collection agency, processing more than \$2.3 trillion in FY 2012 in total trade value. CBP processed 25.3 million cargo containers through the nation's ports of entry in FY 2012, up about 4 percent from the previous year. In addition, CBP conducted nearly 23,000 seizures of goods that violate intellectual property rights, with a total retail value of \$1.2 billion, representing a 14 percent increase in value over FY 2011.

CBP personnel at the ports of entry are key to achieving and maintaining a secure border and the greatest current challenge to border security is sequestration under the Budget Control Act that went into effect on March 1<sup>st</sup>.

Under sequestration, CBP's Salaries and Expenses (S&E) discretionary and mandatory accounts must be reduced by \$512 million. This number includes a cut of \$75 million in CBP user fee accounts. User fees will continue to be collected from industry to provide travel and trade security, immigration and agriculture inspection services, but CBP will be prohibited from using a portion of these user fees. User fees are not a tax, by law they pay for specific services provided by the government. Sequestration limits the use of these collected fees to pay for CBP inspectional services.

Also, under sequestration, the cut to the CBP S&E account included a reduction of \$37.5 million for inspectional overtime at the POEs. Overtime is essential when staffing levels are insufficient to ensure that inspectional duties can be fulfilled, that CBP Officers have sufficient

back-up and that wait times are mitigated. In CBP's own words, "Overtime allows CBP Office of Field Operations to schedule its personnel to cover key shifts with a smaller total personnel number." The sequester significantly cuts overtime hours and will result in longer wait times at the ports of entry.

On March 26, the President signed a Continuing Resolution (CR) to fund the government through the end of the fiscal year. The CR does not cancel the sequester. Congress did provide some additional funding for the CBP S&E account in the CR, but also required CBP to maintain the current CBP Officer staffing level. Maintaining current staffing floors means CBP cannot use all of the increased funding in the CR to reduce furloughs for current employees since it must continue to fill vacant positions.

Prior to enactment of the CR, the CBP sequester plan required all CBP employees to be furloughed up to 14 days during the remainder of FY 2013 or one day per pay period beginning early to mid-April through September 30, resulting in a 10% pay cut for all CBP employees. The initially-proposed furloughs would have exacerbated an already unsustainable shortage of CBP inspection and enforcement personnel at international air, sea and land ports of entry.

With the additional funding included in the CR, however, there may be a reduction in the number of furlough days that all CBP employees must take before the end of the fiscal year. In light of the new funding bill, CBP is re-evaluating previously planned furloughs, and has postponed implementation of furloughs pending that re-examination.

There is no greater roadblock to legitimate trade and travel efficiency, however, than the lack of sufficient staff at the ports of entry. Understaffed ports lead to long delays in our commercial lanes as cargo waits to enter U.S. commerce.

Those delays result in real losses to the U.S. economy. According to a draft report prepared by the Department of Commerce, border delays in 2008 cost the U.S. economy nearly 26,000 jobs and \$6 billion in output, \$1.4 billion in wages, and \$600 million in tax revenues annually. According to the same report, by 2017, average wait times could increase to nearly 100 minutes, costing the U.S. more than 54,000 jobs and \$12 billion in output, \$3 billion in wages and \$1.2 billion in tax revenues. The cumulative loss in output due to border delays over the next ten years is estimated to be \$86 billion.

More than 50 million Americans work for companies that engage in international trade, according to the U.S. Department of the Treasury. If Congress is serious about job creation, then Congress should support enhancing U.S. trade and travel by mitigating wait times at the ports and enhancing trade enforcement by increasing CBP security and commercial operations staffing at the air, sea, and land ports of entry.

#### **CBP STAFFING SHORTAGE EFFECTS IN FLORIDA, TEXAS, AND CALIFORNIA**

On February 20<sup>th</sup>, DHS Secretary Napolitano, at the request of Florida's Governor Rick Scott, toured the Miami International Airport (MIA) with a delegation from Congress and airline and cruise representatives and other industry stakeholders. Governor Scott noted that insufficient

staffing at the new state-of-the-art CBP facility at MIA caused a “bottleneck” for passengers trying to exit customs. “As a result, customers—often numbering well over 1,000 a day—and their baggage are misconnected and must be rebooked on later flights, many leaving the next day.”

In a letter to the Secretary, Governor Scott stated, “If this staffing problem is not corrected immediately, it has the potential to damage Florida’s international competitiveness. More than 1 million jobs in Florida depend on international trade and investment. The engineering models and recommendations reflected that for optimal operations a minimum of 62 of the 72 lanes must be staffed at peak arrival periods.”

Congressman Mario Diaz-Balart said after the tour, “Tourism is the backbone of Florida’s economy, and DHS must do more to adequately staff our ports. Our CBP agents are working diligently to protect us from any security threats, illegal substances, and invasive pests and diseases entering the United States, but the lack of staffing is creating long and disorganized lines for travelers, and discouraging travelers from visiting and using South Florida’s ports.”

Another state with ongoing significant CBP personnel staffing shortages is Texas where more than 420,000 jobs depend on trade with Mexico. Texas leads the nation with 29 international ports of entry. The Houston field office manages 19 of these, including the Port of Houston, George Bush Intercontinental Airport (IAH) and airports at Dallas-Fort Worth, Austin, San Antonio, Midland, Lubbock, Amarillo and also Oklahoma City and Tulsa. Currently IAH wait times are considerably longer than Houston’s airport competitors – Dallas and Atlanta. And the City of Houston is considering a proposal to allow international commercial flights at Hobby Airport.

In El Paso, city officials have used the word “crisis” to describe the sometimes hours-long wait times at the local ports of entry and are considering legal action over the environmental effect of international bridge wait times and “CBP’s failure to keep those booths open.”

Wait times of up to three hours at Los Angeles International Airport (LAX), the nation’s third busiest airport moved ten Members of Congress to demand that CBP transfer CBP Officers from other ports of entry to LAX. Despite continuing staffing shortages at LAX, the Bradley terminal is undergoing a \$1.5 billion overhaul that calls for expanding the number of CBP inspection booths to 81.

Also in California, Congress has funded the first phase of a \$583 million upgrade of the Port of San Ysidro. When the first phase is completed in September 2014, there will be 46 inspection booths—up from the current 33. An additional 17 booths would be built in the third phase bringing the total number of booths needing CBP Officer staffing from 33 to 63.

**As noted in these examples, Congress, local jurisdictions and industry stakeholders continue to act as if CBP can staff whatever is built.**

**CBP cannot adequately staff existing port facilities under current funding levels provided by Congress. Proposed port expansions, allowing international flights at airports**

**that are currently not served by international flights, and other new construction to address the growth in international trade and travel, is not possible under the Congressionally-mandated sequester. And, if the sequester, which is intended to be permanent, continues into FY 2014, the current levels of CBP staffing, as set by Congress in statute, will be unsustainable.**

#### **CBP'S ONGOING STAFFING SHORTAGES AT THE POES**

The sequester only exacerbates CBP's ongoing staffing shortage problem. In 2008, the Government Accountability Office (GAO) reported, "At seven of the eight major ports we visited, officers and managers told us that not having sufficient staff contributes to morale problems, fatigue, lack of backup support and safety issues when officers inspect travelers--increasing the potential that terrorists, inadmissible travelers and illicit goods could enter the country." (See GAO-08-219, page 7.)

"Due to staffing shortages, ports of entry rely on overtime to accomplish their inspection responsibilities. Double shifts can result in officer fatigue...officer fatigue caused by excessive overtime negatively affected inspections at ports of entry. On occasion, officers said they are called upon to work 16-hour shifts, spending long stints in primary passenger processing lanes in order to keep lanes open, in part to minimize traveler wait times. Further evidence of fatigue came from officers who said that CBP officers call in sick due to exhaustion, in part to avoid mandatory overtime, which in turn exacerbates the staffing challenges faced by the ports." (See GAO-08-219, page 33.)

Without adequate personnel at secondary, wait times back up and searches are not done to specifications. This is a significant cargo security issue. A full search of one vehicle for counterfeit currency will take two officers on average a minimum of 45 minutes. Frequently, only one CBP Officer is available for this type of search and the search will then take well over an hour.

Finally, NTEU has been told that when wait times in primary inspection become excessive in the opinion of the agency, CBP Officers are instructed to query only one occupant of a vehicle and to suspend COMPEX (Compliance Enforcement Exams) and other automated referral to secondary programs during these periods. This is a significant security issue. Also, when primary processing lanes become backed up, passenger vehicles are diverted to commercial lanes for processing, backing up truck lanes and increasing wait times for cargo inspection.

In October 2009, the Southwest Border Task Force, created by DHS Secretary Janet Napolitano, presented the results of its staffing and resources review in a draft report. This draft report recommends the "federal government should hire more Customs [and Border Protection] officers."

The report echoes the finding of the Border-Facilitation Working Group. (The U.S.-Mexico Border Facilitation Working Group was created during the bilateral meeting between President George W. Bush and President Felipe Calderon held in Merida in March 2007.) "In order to more optimally operate the various ports of entry, CBP needs to increase the number of

CBP Officers.” According to its own estimate, the lack of staffing for the San Ysidro POE alone is in the “hundreds” and the CBP Officer need at all ports of entry located along the border with Mexico is in the “thousands.” (“CBP: Challenges and Opportunities” a memo prepared by Armand Peschard-Sverdrup for Mexico’s Ministry of the Economy: U.S.-Mexico Border Facilitation Working Group, January 2008, pages 1 and 2.)

Also, when CBP was created, it was given a dual mission of safeguarding our nation’s borders and ports as well as regulating and facilitating international trade. It also collects import duties and enforces U.S. trade laws. Since CBP was established in March 2003, there has been no increase in CBP trade enforcement and compliance personnel. In effect, there has been a CBP trade operations staffing freeze at March 2003 levels and, as a result, CBP’s revenue function has suffered and duty and fee revenue collected has remained flat.

### **CONCLUSION**

As noted by Members of Congress, industry stakeholders, the traveling public and DHS’s own Advisory Council, for too long, CBP at the POEs has been underfunded and understaffed.

**By allowing the sequester to go into effect on March 1, Congress continues to exacerbate staffing shortages at the U.S. ports of entry, and the U.S. economy, dependent on international trade and travel, will suffer and U.S. private sector jobs will be lost. Therefore, NTEU strongly urges Congress to end the sequester.**

The more than 24,000 CBP employees represented by the NTEU are capable and committed to the varied missions of DHS from border control to the facilitation of legitimate trade and travel. These men and women are deserving of more resources and technology to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the Committee on their behalf.

**Post-Hearing Questions for the Record**  
**Submitted to Kevin K. McAleenan, Michael J. Fisher, and Randolph D. Alles**  
**From Senators Thomas R. Carper, Carl Levin, Mary L. Landrieu, Jon Tester, and**  
**Tom Coburn**

**“Border Security: Frontline Perspectives on Progress and Remaining Challenges”**  
**April 10, 2013**

<b>Question#:</b>	1
<b>Topic:</b>	cost-savings
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** CBP’s written statement indicates that technology investments are facilitating staffing reductions at foreign ports without threatening security outcomes; that means taxpayer savings. The testimony also indicates that technology investments “allow CBP the flexibility to shift more Border Patrol Agents from detection duties to interdiction and resolution of illegal activities on our borders.” I appreciate the agency’s focus on technology investments as a force multiplier and cost-savings tool. The Department of Homeland Security’s Science & Technology Directorate plays a critical role in this domain, and I’m very happy to hear that CBP is partnering with S&T to improve border security.

Unfortunately, S&T has been repeatedly targeted for draconian budget cuts by some lawmakers who fail to appreciate its critical role within the Department. You mentioned that CBP is working with S&T on tunnel detection, tunnel activity monitoring, low-lying aircraft detection and tracking, maritime data integration, cargo supply chain security, border surveillance tools tailored to northern and southwest terrains, ground sensors and tripwires, mobile surveillance upgrades, camera poles, and area-wide surveillance.

Can you please elaborate on the potential cost-savings and operational benefits of these technologies and explain S&T’s role in helping CBP to acquire them?

**Response:**

**The response to this question is Law Enforcement Sensitive/For Official Use Only and will remain on file in the committee offices.**

<b>Question#:</b>	2
<b>Topic:</b>	statistics
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** At the hearing, I asked you to provide statistics about the nationality of the people who are caught attempting to cross the border illegally. Can you please provide a breakdown of that population for the last three years?

**Response:**

<b>BORDER PATOL APPREHENSIONS</b>			
<b>Citizenship</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
AFGHANISTAN	9	2	12
ALBANIA	42	52	53
ALGERIA	5	1	1
ANGOLA	2	5	4
ANTIGUA-BARBUDA	2	3	2
ARGENTINA	62	51	42
ARMENIA	7	7	1
AUSTRALIA	5	6	4
AUSTRIA	1	3	
AZERBAIJAN		3	
BAHAMAS	16	25	30
BAHRAIN		1	
BANGLADESH	123	85	99
BARBADOS	5	5	3
BELARUS	6	7	2
BELGIUM		3	1
BELIZE	57	54	54
BENIN	3	1	
BERMUDA	1		2
BHUTAN		2	
BOLIVIA	66	42	28
BOSNIA-HERZEGOVINA	1	3	1
BOTSWANA		1	
BRAZIL	812	472	310
BRITISH VIRGIN ISLANDS			1
BULGARIA	12	20	16
BURKINA FASO	6	2	
BURMA	11	1	1
BURUNDI		2	1
CAMBODIA	12	5	2

<b>Question#:</b>	2
<b>Topic:</b>	statistics
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Citizenship	FY 2010	FY 2011	FY 2012
CAMEROON	18	13	3
CANADA	690	403	434
CAPE VERDE	2	2	1
CENTRAL AFRICAN REPUBLIC	1		
CHAD		1	
CHILE	38	45	15
CHINA, PEOPLES REPUBLIC OF	1,157	935	960
COLOMBIA	517	348	272
CONGO	9	7	4
COSTA RICA	185	102	159
CROATIA		6	
CUBA	712	959	606
CZECH REPUBLIC	22	13	9
CZECHOSLOVAKIA		2	1
DEM REP OF THE CONGO		1	1
DENMARK	1	2	2
DJIBOUTI		2	
DOMINICA	2	5	
DOMINICAN REPUBLIC	1,330	846	1,044
ECUADOR	1,777	1,264	2,289
EGYPT	10	19	10
EL SALVADOR	13,723	10,874	22,158
EQUATORIAL GUINEA		1	1
ERITREA	153	22	1
ESTONIA	1	4	
ETHIOPIA	48	15	6
FIJI	1	1	
FINLAND	2	1	1
FRANCE	13	15	8
GABON		2	
GAMBIA	7	11	3
GEORGIA	13	9	9
GERMANY	15	16	4
GHANA	34	48	4
GREECE	5	4	3
GRENADA	1	6	
GUAM	1		1
GUATEMALA	18,406	19,061	35,204
GUINEA	8	14	



<b>Question#:</b>	2
<b>Topic:</b>	statistics
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Citizenship	FY 2010	FY 2011	FY 2012
GUYANA	20	22	7
HAITI	419	114	177
HONDURAS	13,580	12,197	30,953
HONG KONG	1		1
HUNGARY	18	14	10
INDIA	1,221	2,576	642
INDONESIA	15	8	11
IRAN	14	25	8
IRAQ	17	4	5
IRELAND	13	9	7
ISRAEL	38	55	17
ITALY	11	10	8
IVORY COAST	13	4	2
JAMAICA	244	171	124
JAPAN	6	10	4
JORDAN	17	20	13
KAZAKHSTAN	10	5	6
KENYA	21	21	8
KOREA	1	8	4
KOSOVO	6	11	4
KUWAIT	1	1	
KYRGYZSTAN	3	4	4
LAOS	12	9	9
LATVIA	7	3	2
LEBANON	11	9	4
LIBERIA	3	6	1
LIBYA	3	3	4
LITHUANIA	8	4	3
MACEDONIA	7	8	3
MALAWI	3	1	1
MALAYSIA	13	8	3
MALI	6	4	2
MALTA		1	
MARSHALL ISLANDS	1		
MAURITANIA	2	3	
MAURITIUS		1	
MEXICO	404,365	286,154	265,755
MICRONESIA, FEDERATED STATES OF	1		
MOLDOVA	17	29	10

<b>Question#:</b>	2
<b>Topic:</b>	statistics
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Citizenship	FY 2010	FY 2011	FY 2012
MONGOLIA	13	7	9
MONTENEGRO		1	
MONTSERRAT		1	
MOROCCO	6	10	3
MOZAMBIQUE	1		
NAMIBIA	1	1	
NEPAL	146	82	149
NETHERLANDS	7	3	4
NETHERLANDS ANTILLES	1		
NEW ZEALAND	5	6	4
NICARAGUA	909	644	926
NIGER	3	1	
NIGERIA	38	49	24
NORWAY			4
PAKISTAN	37	64	34
PALAU		1	
PANAMA	24	18	11
PARAGUAY	12	10	7
PERU	410	362	321
PHILIPPINES	102	71	44
POLAND	100	47	44
PORTUGAL	9	7	7
QATAR	1		
ROMANIA	412	609	938
RUSSIA	52	74	23
RWANDA	1		
SAMOA			1
SAUDI ARABIA	5	4	6
SENEGAL	10	11	3
SERBIA		1	3
SERBIA AND MONTENEGRO	13	3	2
SEYCHELLES			1
SIERRA LEONE	8	1	1
SINGAPORE	2	1	
SLOVAKIA	14	4	6
SLOVENIA	1		
SOMALIA	9	10	6
SOUTH AFRICA	21	16	7
SOUTH KOREA	47	41	25

<b>Question#:</b>	2
<b>Topic:</b>	statistics
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Citizenship	FY 2010	FY 2011	FY 2012
SPAIN	8	9	11
SRI LANKA	203	235	185
ST. KITTS-NEVIS	3	3	
ST. LUCIA	12	6	4
ST. VINCENT-GRENADINES	6	4	4
STATELESS	1	1	1
SUDAN	5	6	3
SURINAME	2		1
SWEDEN	4	3	7
SWITZERLAND		1	
SYRIA	5	9	8
TAIWAN	5	7	7
TAJIKISTAN	2	13	3
TANZANIA	3	6	9
THAILAND	21	17	16
TOGO	3	3	3
TONGA	1		
TRINIDAD AND TOBAGO	60	51	17
TUNISIA	1	7	1
TURKEY	33	25	16
TURKMENISTAN		1	
TURKS AND CAICOS ISLANDS	3		
UGANDA	3	4	
UKRAINE	39	30	23
UNITED ARAB EMIRATES	1	1	
UNITED KINGDOM	40	28	24
UNKNOWN	14	4	9
URUGUAY	22	33	16
USSR	1	2	3
UZBEKISTAN	21	14	18
VENEZUELA	77	55	44
VIETNAM	16	18	14
YEMEN	11	9	2
YUGOSLAVIA	8	5	5
ZAMBIA	5	6	3
ZIMBABWE	7	1	3
<b>Nationwide Total</b>	<b>463,382</b>	<b>340,252</b>	<b>364,768</b>

<b>Question#:</b>	3
<b>Topic:</b>	effectiveness rate
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** How do you measure your effectiveness rate? Please describe in as great a detail as possible the mathematical formula that you use to measure the effectiveness rate, including what data you rely on.

What steps you take to ensure the accuracy of that data, and what safeguards do you have in place to ensure no manipulation of the data input, analysis and data output?

**Response:** The Department of Homeland Security (DHS) uses a number of indicators and outcomes to evaluate security efforts at our borders, including factors such as resource deployment, crime rates in border communities, and apprehensions. However, while enforcement statistics and economic indicators point to increased security and an improved quality of life, no single metric can conclusively define the state of border security. Any individual metric can only capture one element of border security and none captures the true state of security along our borders.

One of the indicators DHS uses to evaluate security efforts is the rate of effectiveness. In accordance with the Government Performance and Results Act of 1993 (GPRA), an Act that provided for the establishment of strategic planning and performance measures in the Federal Government, U.S. Customs and Border Protection (CBP) uses a mathematical formula to generate a rate of effectiveness. The mathematical formula involves the following variables:

- Apprehension: A subject who, after making an illegal entry, is taken into custody and receives a consequence.
- Turn Back: A subject who, after making an illegal entry into the United States, returns to his or her country of entry, not resulting in an apprehension or got away.
- Got Away: A subject who, after making an illegal entry, is not turned back or apprehended.
- Total Entries: The sum of all Apprehensions, Turn Backs, and Got Aways.

The GPRA effectiveness formula is:

$$\frac{\text{Apprehensions} + \text{Turn Backs}}{\text{Total Entries}} = \text{Rate of Effectiveness}$$

<b>Question#:</b>	3
<b>Topic:</b>	effectiveness rate
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

In addition to station level safeguards, CBP's Office of Border Patrol (OBP) Statistics and Data Integrity Unit (SDI) validates data integrity by utilizing various data quality reports. Data issues are corrected at the headquarters level, or forwarded to the original inputting station for correction.

All statistics requested from within DHS, OBP, or external sources are routed through the centralized office within OBP. The SDI Unit coordinates with these entities to ensure accurate data analysis and output.

<b>Question#:</b>	4
<b>Topic:</b>	access to public lands
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Do your agents have complete access to public lands? In what way would having access to public lands benefit your ability to secure the border?

**Response:** In accordance with the 2006 Memorandum of Understanding between U.S. Customs and Border Protection (CBP), the Department of the Interior (DOI), and the U.S. Department of Agriculture, CBP's Border Patrol Agents have not been denied access in the case of an emergency or exigent circumstance to exercise their authority. Any environmental situations identified are currently being cooperatively addressed by CBP, DOI, and the U.S. Forest Service.

<b>Question#:</b>	5
<b>Topic:</b>	interior enforcement
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** During a recent trip to the northern border, I spoke with U.S. Customs and Border Patrol (CBP) agents who were frustrated by some jurisdictional issues with those at Immigration and Customs Enforcement (ICE). In one case, CBP had actionable intelligence to make a number of arrests and was ready to move forward but ultimately had to defer to ICE because the matter qualified as “interior enforcement.” Ultimately, nothing was done to address the issue. Can you clarify how CBP and ICE currently handle their overlapping jurisdiction in regards to the arrest of undocumented individuals, and who makes this determination?

**Response:** The principles and direction outlined in the 2004 Memorandum of Understanding (MOU), Guidelines Governing Interaction between U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and U.S. Customs and Border Protection (CBP) Office of Border Patrol (OBP), have strengthened the relationship between the two offices and clarified our roles and responsibilities; translating into increased participation in many successful joint enforcement operations.

Article 7 of the MOU, “Interior Immigration Enforcement”, outlines the relationship between HSI and OBP based on the primary enforcement responsibilities. CBP has primary responsibility for all cross-border and border related interdiction activities between the ports of entry (alien and drug interdiction, bulk cash interdiction, firearm interdiction, intelligence, asset seizure and forfeiture, prosecutions, etc.). HSI has the primary investigative authority for immigration and customs violations (alien and drug smuggling, bulk cash smuggling, firearm smuggling, worksite enforcement, domiciled aliens, etc.).

In all cases regarding interior enforcement the MOU is utilized to define the requirement and information sharing between the organizations. In recent cases in Montana, HSI has expanded the scope of the investigation to seek large-scale conspiracy violations which take time. Making one or two arrests of illegal aliens may not always be the best course of action to disrupt a possible larger scale immigration conspiracy.

Recently, CBP, Havre Sector, Montana and HSI – Montana have worked together on cases that may be relevant to this question. In one case, HSI was leading the investigation and OBP was providing support for the investigation of a Canadian immigrant businessman regarding fraud allegations. At the time of the initial investigation, it was determined that he was employing immigrant workers legally.

<b>Question#:</b>	5
<b>Topic:</b>	interior enforcement
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

In another case CBP had received information about possible illegal employment at a construction site. CBP passed the information to HSI and a joint investigation was initiated, led by HSI. As part of the investigation, HSI and OBP conducted Form I-9 (Employment Eligibility Form) research. As a result of the investigation, HSI contemplated fining the company for failing to comply with Form I-9 requirements. CBP Havre Sector made several apprehensions of workers connected to the construction site at other locations in the area, but did not conduct a worksite enforcement action.

In both of the above cases, CBP adhered to the guidance in the 2004 MOU and conducted successful joint investigations. Because these cases were led by HSI and the potential for further investigation, the outcomes of these investigative/enforcement actions were not widely publicized.

**Question:** Is this ultimately determined on a case-by-case basis?

**Response:** Yes, the action CBP takes upon encounter is determined on a case-by-case basis; as stipulated in the 2004 MOU defining each agency's responsibility for enforcement actions.

**Question:** Is there currently action being taken to make this a more seamless process? If not, why?

**Response:** Collocation between the Border Patrol and HSI is a best practice and ensures proper and timely sharing of information and intelligence between our agencies, facilitating interdiction efforts against illegal cross-border activity. The Border Patrol's Havre Sector and HSI's Great Falls, Montana office have established an integrated partnership, maximizing their comprehensive approach to border security to support the DHS mission. Specifically, a Border Patrol Agent is assigned to the Great Falls, Montana HSI office and an HSI Special Agent is assigned to the Havre Sector Intelligence office for expedited, joint situational awareness.



<b>Question#:</b>	6
<b>Topic:</b>	GAO
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** In 2011, the Government Accountability Office (GAO) highlighted that we had operational control of only one percent of the northern border. While I certainly hope and expect that number to have increased, we must do a much better job. We need to be innovative, we need to be smart and we need to harness all of the tools at our disposal. That means utilizing state and local law enforcement to better patrol our northern border. With particular respect to the northern border, can you highlight for us the importance of these partnerships, as well as any efforts underway to make these partnerships more effective?

**Response:** As part of the U.S.-Canada Beyond the Border Initiative, launched in 2011 as a vision for perimeter security and economic competitiveness, the United States and Canada have worked together to focus and coordinate action by both governments on specific measures that bolster security and facilitate the legitimate flow of commerce and travel, including: 1) establishing a coordinated entry/exit information system such that a record of entry into one country becomes a record of exit from the other; 2) a cargo pre-inspection pilot program that allows for the inspection of cargo before it reaches the U.S.-Canada border, designed to decrease border wait times and identify and resolve security threats in advance; and 3) building on existing bilateral law enforcement programs to develop the next generation of integrated cross-border law enforcement operations that leverage cross-designated officers and resources to jointly identify, assess, and interdict persons and organizations involved in transnational crime. There is broad recognition that these initiatives are even more important in a time of fiscal constraint, and that collaborating with the Canadian government to facilitate business travelers, promote tourism, enhance domain awareness, combat threats, and facilitate cross border trade will be crucial to our economic future and the security of our citizenry. Furthermore, U.S. Customs and Border Protection's (CBP) operational components along the Northern border work hand-in-hand with their Canadian, state, and local law enforcement counterparts on a daily basis. Through these relationships, information is exchanged, targets are identified, and operations are coordinated, conducted, and de-conflicted through established protocols. These tactical and operational level partnerships are essential in achieving joint border security goals.

**Question:** What steps can be taken to enhance these partnerships?

**Response:** In an era of constrained budget environments, forming interdependent alliances must be encouraged to provide for a collaborative operational threat picture. Such expansion of relationships requires closer operational integration, and enhanced

<b>Question#:</b>	6
<b>Topic:</b>	GAO
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

community outreach and engagement to enlist the *whole-of-community* in the enterprise of border security.

Involving the whole-of-community in the process maximizes strategic, operational, and tactical information sharing and through such diverse partnerships CBP increases the likelihood of interdiction and apprehension of cross-border illegal activity. CBP's participation in multi-agency, bi-national taskforces, community education, and engagement and participation in intelligence sharing units effectively "widens the border" and creates a "defense in depth" for the border. By so doing, the entirety of the border law enforcement community are also provided with advanced warning to intercept or deter criminal activity.

CBP also plays a lead role in the implementation of the 2012 *National Northern Border Counternarcotics Strategy*, which includes the adoption of a whole-of-community approach as a core principle supported by two specific action items: 1) adopt a whole-of-community approach to community resilience, including demand reduction efforts and 2) further integrate community members in border management in and around remote ports of entry.

**Question:** Do you believe that access to Operation Stonegarden grants to northern border counties has enhanced coordination between federal, state and local law enforcement agencies?

**Response:** Yes, the use of the Stonegarden integrated planning teams (IPT) to develop and review Stonegarden operations has improved the coordination between CBP and state, local, and tribal law enforcement agencies. Stonegarden uses an integrated effort (unity of effort) to achieve goals and objectives.

Using an IPT chaired by the U.S. Border Patrol, participation in Stonegarden is based on the expectation that state, local, and tribal law enforcement agencies will conduct border-security operations. The IPT utilizes information provided by intelligence centers and establishes a common operational vision. It also serves as a method to provide routine monitoring and technical expertise to each participating agency and evaluates where and how operations are conducted and the most efficient and effective utilization of funds to increase border security.

<b>Question#:</b>	7
<b>Topic:</b>	military-grade radar
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** I have long fought for deployment of military-grade radar as a cost-effective tool to address the increased rates of drug smuggling across the border by low-flying aircraft. A broader deployment of this technology would help us better identify and intercept these aircraft, and it would improve safety in communities along the border. I was encouraged that the Department of Homeland Security (DHS) entered into an agreement with the Canadian government in 2011 to begin receiving Canadian radar feeds of the border. Can you provide an update on this initiative?

**Response:** Twenty-two NAV CANADA Radars spanning British Columbia to Nova Scotia are now integrated into the mosaic of over 300 feeds of U.S. Customs and Border Protection (CBP) Office of Air and Marine (OAM) Air and Marine Operations Center's (AMOC) Air and Marine Operations Surveillance System. NAV CANADA is Canada's civil air navigation services provider and it is a private sector corporation, with operations coast to coast. NAV CANADA provides air traffic control, flight information, weather briefings, aeronautical information services, airport advisory services, and electronic aids to navigation. The Federal Aviation Administration (FAA) has established and maintains the agreements with NAV CANADA for the sharing of the 22 radars which allows for the AMOC's interaction and interface with NAV CANADA.

**Question:** Has it proven beneficial to our efforts along the northern border?

**Response:** Not only has the addition of these radars enhanced the air picture along the northern border where gaps existed prior to their integration, but they have increased law enforcements' likelihood of successful interdictions by providing AMOC the ability to detect these targets beyond the border, thereby increasing response times. This also ensures detection/monitoring assets and interdiction resources are utilized in the most effective, efficient, and flexible manner possible to dismantle drug-trafficking organizations attempting to operate along the Northern border at altitudes above radar coverage limited by terrain.

**Question:** Are there any plans in place to expand upon these capabilities?

**Response:** While the NAV CANADA radars have proven beneficial, coverage gaps still exist, particularly at lower altitudes where terrain limits the wide area coverage of existing radars. OAM's AMOC continues to work closely with the FAA to acquire additional feeds as they become available in an effort to close remaining gaps. Most recently, AMOC integrated Toledo, Ohio Approach Radar in an effort to mitigate

<b>Question#:</b>	7
<b>Topic:</b>	military-grade radar
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

existing low level gaps in the Great Lakes region. Additionally, OAM is working with CBP's Office of Technology Innovation and Acquisition via the Low-Flying Aircraft Detection Program to identify and procure additional technology aimed at further mitigating the threat along the Northern border. This includes working with S&T to counter the small, low observable aircraft being used for illicit purposes that are entering the United States from Canada. Suspect aircraft often fly below conventional radar and land or make drops undetected. Under CBP funding, S&T is developing a low cost, flexible system of acoustic and radar sensors, communications, remote power, and visualization tools to enable CBP to differentiate between illicit and legitimate flights in a region of interest. A northern border S&T led operational pilot is starting in summer 2013 to guide low-flyer system development and inform CBP acquisition.

Additionally, the detection of small aircraft by conventional radar may be obscured from lines of sight to their targets and can also be distorted by wind turbines reducing effectiveness. S&T is looking at technologies that would overcome the shortfalls in existing radar systems as well as mitigate or prevent the problem associated with aviation and border security while supporting the Administration's alternative energy initiative.

<b>Question#:</b>	8
<b>Topic:</b>	interoperable communications
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** In reference to the northern border, interoperability is vital to adequately patrol such a large area. Because the vast border contains hundreds of miles, interoperable communications are undoubtedly a critical element of border security. What is CBP doing to increase interoperable communications among our law enforcement personnel working along the border, particularly those in remote areas?

**Response:**

**The response to this question is Law Enforcement Sensitive/For Official Use Only and will remain on file in the committee offices.**

<b>Question#:</b>	9
<b>Topic:</b>	overtime pay
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** As a result of the sequester, CBP announced that it would be eliminating overtime pay for agents in the field. Though the Continuing Resolution restored some of these funds and CBP agreed to delay the elimination of overtime pay, we have yet to receive assurances that such cuts won't be reinstituted. When agents start a shift on the northern border, they often have to travel numerous hours to get to their area of operation. And because these agents often operate individually to stretch our manpower, any gaps in work shifts could have significant repercussions on our ability to secure the border. In these cases, given the realities of our current workforce, overtime pay is our only option. Can you speak to the efforts that will be undertaken by CBP to ensure the elimination of overtime pay is not reconsidered?

**Response:** The Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) leadership have been working to mitigate, to the greatest extent possible, the impacts of sequestration on CBP operations and employees – while ensuring that CBP's national security mission remains its highest priority. Because of the increases provided in the *Consolidated and Further Continuing Appropriations Act of 2013* (P.L. 113-6), CBP postponed implementation of previously-planned furloughs and the de-authorization of Administratively Uncontrollable Overtime.

On May 17, 2013, the Administration submitted a plan to Congress to partially mitigate the impacts of sequester to our workforce through various proposals. This plan, if approved by Congress, should eliminate the need to furlough CBP personnel this fiscal year. However, the impacts of sequestration are significant, including nearly \$600 million in cuts across CBP. For example, for the remainder of this fiscal year, CBP will continue the hiring freeze for non-frontline personnel, maintain limited reductions in overtime, and forgo "On the Spot" and "Special Act" monetary awards in Fiscal Year 2013. While these reductions are not without significance and will continue to impact our mission, they are preferable to the personal hardships and operational impact of incurring furloughs at this point in the fiscal year.

<b>Question#:</b>	10
<b>Topic:</b>	smuggling goods
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** In 2008, I participated in Indian Affairs Committee hearings that highlighted efforts by international criminals who were using American Indian reservations along the border for smuggling goods in and out of the country. Subsequently, I asked GAO to study the cooperation between federal and tribal officials responsible for keeping our borders safe. That recently released report pointed out some success but also highlighted the need for increased collaboration between DHS and tribes located near the border. Have you had the opportunity to respond to the report?

**Response:** Yes. The Government Accountability Office (GAO) issued a FOUO report (GAO-13-91SU) in December 2012 and a public version (GAO-13-352) of the report in April 2013. The Department of Homeland Security (DHS) provided responses to each report, which were published in final versions. GAO issued two recommendations in the final report. DHS concurred with the recommendations: 1) Examine, or direct U.S. Customs and Border Protection (CBP) to examine, as appropriate, the potential benefits of government-to-government written agreements with tribes facing border security threats, and 2) Develop and implement a mechanism to monitor DHS's department-wide border security coordination efforts with tribes. The recommendations are directed toward the DHS Office of Intergovernmental Affairs (IGA). IGA and CBP are working together to develop DHS-level initiatives to implement the recommendations made to the department. DHS has also sent a 60-day update letter to the FOUO version of the report to Congress. The 60-day update letter is attached for your reference.



Signed letter for  
GAO-13-91SU Border

*Assistant Secretary for Legislative Affairs*  
U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

April 10, 2013

Pursuant to the requirements of 31 U.S.C. Section 720, the Department of Homeland Security (DHS) is submitting this written statement on actions taken regarding the Government Accountability Office (GAO) recommendations contained in its report, GAO-13-91SU, "BORDER SECURITY: Partnership Agreements and Enhanced Oversight Could Strengthen Coordination of Efforts on Indian Reservations"

This letter provides a status update and is being provided to the following Members of Congress and the Director of OMB:

The Honorable Michael T. McCaul  
Chairman, Committee on Homeland Security

The Honorable Bennie G. Thompson  
Ranking Member, Committee on Homeland Security

The Honorable Darrell Issa  
Chairman, Committee on Oversight and Government Reform

The Honorable Elijah Cummings  
Ranking Member, Committee on Oversight and Government Reform

The Honorable Thomas R. Carper  
Chairman, Committee on Homeland Security and Governmental Affairs

The Honorable Thomas A. Coburn, M.D.  
Ranking Member, Committee on Homeland Security and Governmental Affairs

The Honorable Jeffrey D. Zients  
Deputy Director, Office of Management and Budget

If I may be of further assistance, please contact me at (202) 447-5890.

Respectfully,

A handwritten signature in black ink, appearing to read "Nelson Peacock".

Nelson Peacock  
Assistant Secretary for Legislative Affairs



Pursuant to the requirements of 31 U.S.C. Section 720, the Department of Homeland Security (DHS) is submitting this written statement on actions taken regarding the Government Accountability Office (GAO) recommendations contained in its report, GAO-13-91SU, "BORDER SECURITY: Partnership Agreements and Enhanced Oversight Could Strengthen Coordination of Efforts on Indian Reservations"

**Recommendation 1:** Examine, or direct CBP to examine, as appropriate, the potential benefits of government-to-government written agreements with tribes facing border security threats, including the Saint Regis Mohawk and Tohono O'odham tribes.

**Response:** Concur. DHS agrees that more formalized government-to-government agreements between U.S. Customs and Border Protection (CBP) and tribal nations should be developed for substantive issues. Written agreements, subject to legal review prior to signature, will memorialize both the issues and solutions. DHS-IGA will work with CBP in the coming year to determine how this recommendation can be implemented. Estimated Completion Date (ECD): December 31, 2013

**Update:** DHS-IGA, in coordination with CBP, will implement the following action items to ensure the development of mechanisms and oversight which will enhance and encourage tribal partnering, enhance mutual understanding and facilitate consistency in future government-to-government agreements with tribal nations.

1. Charter an internal leadership advisory council with representation from the Department and CBP components to examine the status and interactions of government-to-government tribal affairs. ECD: May 1, 2013
2. Work with the Office of General Counsel (OGC) and CBP components to compile a list of forthcoming programs, initiatives and regulations that will have tribal implications and require consultation. ECD: June 30, 2013
3. Determine internal mechanisms needed for continued implementation and monitoring of the Department's tribal policy including potential Management Directives and/or Component tribal consultation policies. ECD: August 1, 2013
4. Consult with the Department, OGC, CBP components, and tribal stakeholders to explore and consider standardized language for future government-to-government contracts between tribal nations and the U.S. government representatives of the Department which recognizes the autonomy of tribal nations to fulfill the requirements of government-to-government contracts. ECD: October 1, 2013
5. Institutionalize training on negotiations with tribal governments, cultural sensitivity and strategic tribal partnering for dedicated Tribal Liaisons, CBP program managers and CBP executive leadership. ECD: December 1, 2013

**Recommendation 2:** Develop and implement a mechanism to monitor DHS's department-wide border security coordination efforts with tribes.

**Response:** Concur. DHS has historically entered into negotiations, consultation, and outreach to tribal nations regarding border issues as well as other DHS-related policies and programs. Those negotiations have included tribal input on numerous occasions, field and headquarters consultation with tribal leadership, and continued work with tribes on a regular basis.

DHS agrees that developing an Agency-wide program could further enhance the interests of the tribes and the Department for border security and many other programs. DHS, in consultation with tribes, will convene an internal group to discuss the feasibility of establishing a permanent program or an intra-agency oversight committee to address border security and other issues related to interaction and program delivery with tribes. ECD: December 31, 2013

**Update:** DHS initiated meetings with the Office of State and Local Law Enforcement to begin discussions for including tribal law enforcement departments and associations in a monthly law enforcement conference call. DHS continues to monitor and actively engage in legislative and program issues affecting tribes, and will implement the following action items.

1. DHS will convene an internal leadership group to discuss the feasibility of creating a permanent oversight committee regarding border and other DHS related issues that impact tribes. ECD: June 1, 2013
2. DHS will coordinate with the Office of State and Local Law Enforcement ensuring inclusion of tribal law enforcement and law enforcement associations in existing monthly law enforcement teleconference calls. ECD: June 1, 2013
3. DHS will convene a leadership group to conduct consultation with tribal leaders regarding border and other DHS related issues as part of the goal of improving tribal relations with the Agency. As part of that discussion, DHS will focus on enhancing the relationship between the Component Tribal Liaisons to streamline program outreach and monitoring. ECD: August 1, 2013
4. The Department will work with the DHS Office of General Counsel and component representatives to develop a DHS directive establishing uniform guidelines for all components regarding tribal consultation, as well as review the DHS Tribal Consultation Policy and make revisions as necessary with input from tribal leaders. ECD: December 31, 2013

<b>Question#:</b>	11
<b>Topic:</b>	federal and tribal officials
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The GAO report regarding cooperation between federal and tribal officials responsible for keeping our borders safe suggests that CBP agents can do a much better job of notifying tribes of law enforcement activities occurring on reservation lands. Do you agree with this suggestion?

**Response:** U.S. Customs and Border Protection (CBP) believes open and continuous communication with Tribal Governments is the basis for successfully pursuing mutually agreeable objectives.

**Question:** What is your current notification protocol?

**Response:** CBP partners with a diverse tribal population, across an expanse of terrain in the execution of border security. In order to address such diversity, CBP field operational components utilize established, local, informal procedures to share information as law enforcement operations dictate.

**Question:** GAO also suggests creating a mechanism to monitor and oversee DHS' coordination with tribes. Do you agree with this suggestion?

**Response:** Yes, CBP concurs.

**Question:** How do you ensure CBP is cultivating a productive relationship with border-tribal law enforcement officials?

**Response:** CBP has historically entered into negotiations, consultation, and outreach to tribal nations regarding border issues as well as other related policies and programs. This dialogue has included continual tribal input, field and headquarters consultation with tribal leadership, and cooperative relationships with tribes on a regular basis. CBP will ensure that such interactions continue and will work to streamline outreach processes to tribal nations.

<b>Question#:</b>	12
<b>Topic:</b>	border threats
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** GAO also suggests that CBP officials examine the potential benefits of government-to-government written agreements with tribes facing border threats. Have you signed such agreements or similar documents with border tribes to create a formal relationship? If you have signed such agreements, are they working? How can we improve such agreements? If you have not signed such agreements, why have you not done so?

**Response:** U.S. Customs and Border Protection (CBP) commonly signs agreements with tribal nations on a variety of topics including access to tribal lands for patrols and kinetic barriers, joint incident management, and lease agreements for CBP facilities on tribal property. These agreements have proven mutually beneficial for both the Tribal Nations and CBP, allowing us to work more closely and better align our resources.

<b>Question#:</b>	13
<b>Topic:</b>	Indian Tribes
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** In response to President Obama's Executive Order requiring all federal agencies to adopt a formal consultation process with Indian Tribes, please explain CBP's process as it relates to border security.

**Response:** U.S. Customs and Border Protection (CBP) and Department of Homeland Security (DHS) Intergovernmental Affairs (IGA) are working with the DHS Office of General Counsel as well as component representatives in development of an updated DHS directive establishing uniform guidelines for all components regarding tribal consultation, as well as review of the DHS Tribal Consultation Policy for revisions as necessary with input from tribal leaders.

CBP is committed to working with tribal partners and implementation of the tribal consultation policy. Within the Office of the Commissioner, CBP has a tribal liaison who coordinates policy on tribal issues across the agency. In concert, each of CBP's operational components have a lead representative who addresses tribal concerns at the headquarters level, as well as Border Community Liaisons in the field who regularly meet with a variety of stakeholders, including Tribal Nations.

<b>Question#:</b>	14
<b>Topic:</b>	Illegal flow and turnbacks
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Thomas R. Carper
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** During the hearing, Chief Michael Fisher noted that CBP would be sharing detailed information about its performance metrics with Congress shortly, including estimates for illegal flow and turnbacks, and how these compare with apprehensions made by frontline personnel. Please provide the Committee with these statistics, both at and between the ports of entry, broken down by Sector or District Field Operations office, from 2006 until 2012.

**Response:**

**The response to this question is Law Enforcement Sensitive/For Official Use Only and will remain on file in the committee offices.**

<b>Question#:</b>	15
<b>Topic:</b>	VADER
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Thomas R. Carper
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** A recent article in the Los Angeles Times described the operations of an experimental radar system, the VADER, that was discussed during the hearing. The article claimed that VADER was showing more illegal traffic, and more people getting away, than the Border Patrol was aware of. Please discuss how the VADER system is being used, and whether the Times article's conclusions were accurate.

**Response:** U.S. Customs and Border Protection (CBP) is currently operating a loaned Vehicle and Dismount Exploitation Radar (VaDER) system in Arizona. Initial tests of the system are positive; the technology is capable of detecting and tracking the movement of people in rough terrain to a very high degree of certainty. VaDER is promising technology and the Office of Border Patrol is testing suitable tactics to operate in conjunction with this and other emerging technologies to maximize overall operational effectiveness with the personnel and equipment available.

<b>Question#:</b>	16
<b>Topic:</b>	cross-border trade
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Cross-border trade is increasing and federal budgets are decreasing, which is why we need new financing models to keep pace with the volume of cargo and pedestrians seeking to cross our borders. If we fail to upgrade infrastructure, technology, and staffing at our land ports-of-entry, American businesses and jobs will suffer. A Department of Commerce study from 2008 indicated that processing delays at the nation's busiest ports-of-entry cost the U.S. economy 26,000 jobs, \$1.4 billion in wages, and \$600 million in tax revenue every year. Those numbers are even higher now. That is why facilitating legal crossings at the ports-of-entry is just as important as preventing illegal crossings between them.

Secretary Napolitano established the Border Infrastructure Task Force in November 2012 to suggest ways to enhance border-crossing infrastructure through private investment and public-private-partnerships. We already have a PPP program at the Department of Transportation that leverages \$30 of private investment for every \$1 of taxpayer money invested. When we talk about running the government more like a business, this is the kind of innovative approach that policymakers have in mind. We need that kind of model within CBP as well.

The Border Infrastructure Task Force issued 24 recommendations to upgrade land ports-of-entry. Some of those ideas include:

1. creating an Office of Public-Private-Partnerships within CBP that can partner with the governments of Mexico and Canada, state and local authorities, and the private sector to prioritize, design, and build new infrastructure
2. permitting CBP to invest rent into capital upgrades instead of depositing it in GSA's Federal Buildings Fund
3. authorizing CBP to charge tolls using electronic readers for expedited processing of pre-cleared commuter vehicles
4. leveraging retail and advertising revenue
5. allowing CBP to amortize construction costs over the life-cycle of a project

CBP is launching pilot programs in El Paso and Buffalo to test some of these ideas, and the President's budget that was released today requests additional authority for CBP to finance infrastructure upgrades at our land borders.

**Question:** Can you comment on the state of our land ports-of-entry, the infrastructure and staffing challenges they're experiencing, and some of the options that CBP is



<b>Question#:</b>	16
<b>Topic:</b>	cross-border trade
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<b>Committee:</b>	HOMELAND SECURITY (SENATE)

considering to accommodate increased throughput?

**Response:** Cross-border trade and travel is increasing while port infrastructure budgets are decreasing. Additionally, budgets have not kept pace with the resources required to modernize U.S. Customs and Border Protection's (CBP) Land Port of Entry (LPOE) portfolio. CBP has received \$1.1 billion in infrastructure dollars through the U.S. General Services Administration (GSA) Federal Buildings Fund, and a one-time infusion of \$720 million as part of the 2009 American Recovery and Reinvestment Act. Additionally, \$288 million has been included in the proposed FY 2014 President's Budget to fund San Ysidro Phase III (\$226 million) and Laredo I and II (\$62 million). The LPOE resource gap remains significant, however, particularly in the GSA-owned environment.

Public-Private Partnerships (PPP) and other alternative financing mechanisms may be leveraged to mitigate the impact of the aforementioned budget constraints by providing access to otherwise unavailable resources; however, to fully engage in alternative financing to include PPPs, CBP requires a legal framework to establish long-term PPP agreements and a program framework backed by policies, processes, tools, and the appropriate skill sets to guide programmatic and project-level decisions. CBP has made significant headway on both fronts as described below.

Public Law 113-6, *Consolidated and Further Continuing Appropriations Act, 2013*, provides CBP the authority to accept reimbursement from private entities for services. CBP is currently working on an implementation strategy to execute up to five reimbursable agreements by the December 31, 2013 deadline specific in the act.

As part of the President's FY 2014 Budget Request, CBP proposed an additional authority that would broaden and enhance the Agency's ability to engage in alternative financing by enabling outside donations of real and personal property, including monetary donations and non-personal services, for the purposes of constructing, altering, operating, or maintaining a new or existing LPOE facility.

CBP is working diligently to develop and promote a business model framework that would better enable CBP to identify, prioritize, and engage in partnerships with interested public and private sector investors. Ongoing business model framework development will focus on establishing the policies, processes, and tools necessary to identify, evaluate, plan, and execute LPOE modernization projects using outside investments.

<b>Question#:</b>	16
<b>Topic:</b>	cross-border trade
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

CBP will continue to press forward on the aforementioned and planned alternative financing activities as a top priority to bridge the gap between federal budgets and LPOE modernization resource needs.

CBP is also working closely with our Canadian and interagency partners on this issue. As part of the Beyond the Border Initiative, CBP has developed a joint Border Infrastructure Investment Plan with the Department of Transportation and Canada which outlines the U.S. and Canadian northern border LPOE priorities in an effort to better align investments and improve project development efficiencies moving forward.

As travel volumes continue to increase, CBP also faces significant staffing challenges at our busiest ports of entry (POEs). In concert with the President's FY 2014 Budget request, CBP delivered to Congress its "Resource Optimization at Ports of Entry" report, which includes the Workload Staffing Model (WSM), as requested in the *FY 2012 Homeland Security Appropriations Act*. This report supports CBP's request for additional CBP officers as part of the implementation of CBP's Resource Optimization Strategy. This three-pronged Strategy maximizes existing resources by executing innovations that benefit operations and the traveler experience; pursuing funding strategies through legislative proposals and public-private partnerships; and identifying staffing needs at our Nation's POEs through a data-driven, validated WSM.

The WSM was developed to determine the number of CBP officers needed to enforce the laws at our POEs, carry out our national security mission, and to expedite the legitimate flow of people and goods that are vital to our economy. In short, the model helps determine the number of CBP officers needed to accomplish our mission.

CBP's FY 2014 Budget recognizes the need to maintain the highest levels of security and facilitation of trade and travel at our POEs and includes a request for 3,477 new CBPOs. Of this amount, 1,600 are requested through appropriated funding of \$210 million. Our request also supports legislative changes to user fee collections that would fund approximately 1,877 additional officers. The increase in CBPOs will enhance CBP's ability to facilitate processing of legitimate travelers and cargo, reduce wait times, and increase seizures of illegal items (guns, drugs, currency, and counterfeit goods). These new officers will also help the economy and lead to new jobs.

<b>Question#:</b>	17
<b>Topic:</b>	trusted traveler programs
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** You indicated in your testimony that CBP has enrolled 1.7 million people in its trusted traveler programs. I believe trusted traveler and trusted cargo programs are critical to prioritizing limited resources and facilitating legitimate travel and trade. CBP operates the Global Entry program for inbound air travelers, the SENTRI program for inbound vehicle commuters from Mexico, the NEXUS program for inbound vehicle commuters from Canada, the FAST program for inbound vehicle cargoes, the Container Security Initiative for inbound vessel cargoes, and the Customs and Trade Partnership Against Terrorism to identify trusted shippers.

What is CBP's strategy to expand participation in these programs?

**Response:** U.S. Customs and Border Protection (CBP) has been expanding participation with its trusted traveler programs in several ways including making more travelers eligible through entering into trusted traveler arrangements with other countries; making the programs more appealing by including trusted travelers in other Department of Homeland Security (DHS) programs, such as U.S. citizen Global Entry members in the Transportation Security Administration's (TSA) Pre✓™ expedited screening program; and through bilateral efforts such as the United States-Canada Beyond the Border action plan.

In addition, CBP has reciprocal trusted traveler programs with Canada, Mexico, the Netherlands, and South Korea. CBP has active pilot programs with the United Kingdom, Germany, and Qatar. Currently, work is underway to develop programs with Australia, New Zealand, Israel, Panama, and Saudi Arabia.

CBP has enhanced the trusted traveler programs through the standardization of processes across programs while making travel benefits within the various trusted traveler programs interchangeable. Additionally, U.S. citizen NEXUS members are eligible for expedited security screening at airports in Canada, and in coordination with TSA, CBP has made the TSA Pre✓™ expedited screening program available to Canadian citizen NEXUS members.

Through the implementation of these combined efforts, as of May 6, 2013, CBP has approximately 1.9 million active trusted travelers, representing a 24 percent increase from Fiscal Year 2012.

<b>Question#:</b>	17
<b>Topic:</b>	trusted traveler programs
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Currently, U.S. companies that deal solely in exports are not eligible for membership in Customs-Trade Partnership Against Terrorism (C-TPAT). C-TPAT is in the process of developing a new “exporter only” entity, expanding membership to members of the trade community that were previously not eligible to participate in the C-TPAT program. The Container Security Initiative (CSI) has no plans for expansion at this time.

**Question:** Can you offer additional incentives at border crossings, airports, and seaports to boost enrollment?

**Response:** U.S. Customs and Border Protection (CBP) continues to explore ways to improve the trusted traveler experience. For example, CBP trusted travelers receive front of the line privileges if they are referred for secondary inspection, and members now enjoy a streamlined renewal process whereby interviews are no longer mandatory provided the initial vetting process is passed.

Customs-Trade Partnership Against Terrorism (C-TPAT) is also offering additional incentives for members. C-TPAT members that meet eligibility requirements receive incentives when exporting cargo to Japan and the European Union. C-TPAT is in the process of having these export incentives incorporated for the additional five Mutual Recognition Arrangements (MRA) that have been signed (Canada, Korea, New Zealand, Jordan and Taiwan) and for any new MRAs signed.

**Question:** Does CBP have plans to merge any of its trusted traveler or trusted cargo programs?

**Response:** U.S. Customs and Border Protection’s (CBP) trusted traveler programs are merged, although the traditional brand names remain. In 2010, CBP began to unify its Global Entry, SENTRI, and NEXUS trusted traveler programs. These programs are now unified and use the same online application, the same vetting standards, as well as the same centralized vetting process, and enrollment standards.

**Question:** Would consolidation yield efficiencies to the agency and additional benefits to enrollees?

**Response:** A major advantage of the unification of trusted traveler programs is that members are eligible to use trusted traveler lanes in all modes. For example, all NEXUS members, in addition to U.S. citizens and U.S. lawful permanent residents who are SENTRI members who have passports, may use Global Entry kiosks, without the need to apply for Global Entry; Global Entry members are eligible to use the NEXUS lanes to re-enter the United States by land on the Northern Border. The unification also simplifies

<b>Question#:</b>	17
<b>Topic:</b>	trusted traveler programs
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

program management for U.S. Customs and Border Protection as only one automated system needs to be maintained and through the standardization of eligibility criteria.

<b>Question#:</b>	18
<b>Topic:</b>	CBP employees
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** As of 2011, CBP was the largest uniformed federal law enforcement agency in the country. There has been recent press about a high number of internal corruption allegations involving CBP employees.

What is the current number of open internal affairs investigations within CBP?

**Question:** What is the CBP doing to beef up counter-corruption programs?

**Question:** According to some reports, CBP does not foster timely discipline or exoneration of many cases. What is the department doing regarding CBP's disciplinary system?

**Response:**

The response to this question is Law Enforcement Sensitive/For Official Use Only and will remain on file in the committee offices.

<b>Question#:</b>	19
<b>Topic:</b>	vetting
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Vetting potential CBP employees is a timely, expensive but important process. CBP was supposed to have a corps of 85 polygraphers as of January 1, 2013, to meet the Anti-Border Corruption Act mandate. These polygraphers are to conduct pre-employment testing of all candidates. Has CBP accomplished this?

**Response:** U.S. Customs and Border Protection (CBP) accomplished 100 percent polygraph testing of all law enforcement applicants on October 1, 2012 – more than three months in advance of the requirements of the Anti-Border Corruption Act. CBP is nearing its goal of acquiring a corps of 85 polygraphers to sustain this accomplishment.

<b>Question#:</b>	20
<b>Topic:</b>	drones
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** What safeguards does CBP have in place to ensure its use of drones and other aerial surveillance does not violate Americans' privacy or civil liberties?

**Response:** U.S. Customs and Border Protection (CBP) employs several layers of safeguards to ensure that information and data collection activities associated with its use of Unmanned Aircraft Systems (UAS) and manned aircraft do not infringe upon the privacy and civil liberties of our citizens. These safeguards include mission controls for the officers and agents and security and information technology protections for the IT systems used to maintain any information or data. In addition, all CBP employees are trained on the use and controlled access of information in the automated systems used by CBP to meet its border security and trade facilitation missions. This training is required on an annual basis and covers system security protocols, information access procedures, and privacy protections for all CBP data. Employees are taught and reminded that access is always on a need to know basis associated with their assigned mission responsibilities; employees are also instructed on the consequences of improper access or dissemination, both for the employee and the possible subject of the information or data.

In September 2012, the Department of Homeland Security (DHS) established the *Privacy, Civil Rights and Civil Liberties UAS Working Group*, a Department-wide group co-chaired by the Office for Civil Rights and Civil Liberties, Privacy Office, CBP and including representatives from other DHS components and offices. Specifically, the UAS Working Group is charged with: (1) Establishing a forum for DHS headquarters and components to discuss privacy and civil rights and civil liberties issues related to the Department's use and support of UAS and sensor technology; (2) Ensuring that privacy and civil rights and civil liberties guidance and policies are reflected within the different concept of operations for UAS uses; (3) Identifying potential privacy, civil rights, and civil liberties concerns with respect to the various current or planned uses of UAS by the Department; and (4) Promoting DHS best practices for safeguarding privacy, civil rights, and civil liberties in the use of UAS by DHS partners and grant recipients.

**Question:** What is being done to educate employees about that policy?

**Response:** Employees are required to take annual training on security and privacy matters related to CBP Information Technology systems. Employees who operate equipment used to collect information and data, receive training in how to obtain that information or data in a manner that fulfills CBP's lawful mission.



<b>Question#:</b>	21
<b>Topic:</b>	quantity
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** What quantity of drugs smuggled into the United States across the border from Mexico come through land ports of entry as compared to those smuggled between the ports of entry?

**Response:**

The response to this question is Law Enforcement Sensitive/For Official Use Only and will remain on file in the committee offices.

<b>Question#:</b>	22
<b>Topic:</b>	CBP intelligence
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** How can CBP intelligence be better used by the Department, its components, and/or other federal agencies?

**Response:**

**The response to this question is Law Enforcement Sensitive/For Official Use Only and will remain on file in the committee offices.**

<b>Question#:</b>	23
<b>Topic:</b>	furloughs
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Carl Levin
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** With the passage of the Consolidated and Further Continuing Appropriations Act of FY 2013, Congress provided \$11.9 billion for Customs and Border Protection (CBP); this sustains the funding increase that was put in place in FY 2010. The legislation specifically funds 21,370 border agents and 21,775 CBP officers working at ports of entry. CBP has recently issued a statement stating that implementation of furloughs and de-authorization of Administratively Uncontrollable Overtime will be postponed.

Considering Congress has provided funding to maintain current salary levels for CBP personnel, do you anticipate the CBP moving ahead with either furloughs or de-authorization of AUO in this fiscal year?

**Response:** Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) leadership have been working to mitigate, to the greatest extent possible, the impacts of sequestration on CBP operations and employees – while ensuring that CBP’s national security mission remains its highest priority. Because of the increases provided in the *Consolidated and Further Continuing Appropriations Act of 2013* (P.L. 113-6), CBP postponed implementation of previously-planned furloughs and the de-authorization of Administratively Uncontrollable Overtime.

On Friday, May 17, 2013, the Administration submitted a plan to Congress to partially mitigate the impacts of sequester to our workforce through various proposals. This plan, if approved by Congress, should eliminate the need to furlough CBP personnel this fiscal year. However, the impacts of sequestration are significant, including nearly \$600 million in cuts across CBP. For example, for the remainder of this fiscal year, CBP will continue the hiring freeze for non-frontline personnel, maintain limited reductions in overtime, and forgo “On the Spot” and “Special Act” monetary awards in Fiscal Year 2013. While these reductions are not without significance and will continue to impact our mission, they are preferable to the personal hardships and operational impact of incurring furloughs at this point in the fiscal year.

<b>Question#:</b>	24
<b>Topic:</b>	Office of Air and Marine
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** What metrics does the Office of Air and Marine use to measure your effectiveness?

**Response:** U.S. Customs and Border Protection Office of Air and Marine (OAM) tracks aircraft and vessel operating hours by location, type of vessel or aircraft, agency supported, type of mission, and results achieved (seizures, arrests, apprehensions).

OAM Operations uses statistics driven metrics to measure effectiveness within the aviation and maritime domains. These statistics are measured by arrests, apprehensions and seizures rather than formal inspection of every aircraft and vessel transiting into the United States. Complete domain awareness is virtually impossible without specific intelligence and the means to stop and inspect every target of interest transiting United States borders.

Specifically in the maritime environment, small vessels are not like larger vessels which are equipped with Automated Identification System (AIS) tracking. There are approximately 12.5 million registered recreational vessels in the United States. Even if each one of them were equipped with AIS every vessel would have to be stopped and the threat adjudicated in order to have complete maritime domain awareness.

Other areas where OAM utilizes metrics is in the performance of U.S. Immigration and Customs Enforcement (ICE) and other agency support. OAM bases its success on the overall percentage of requests for air and marine law enforcement support made by ICE and the interagency versus number of air and marine law enforcement requests supported by OAM.

**Question:** How does the Office of Air and Marine use intelligence for its operations?

**Response:** U.S. Customs and Border Protection (CBP) Office of Air and Marine (OAM) uses intelligence for direct support to operations by using historical trends and predictive analysis obtained from intelligence and law enforcement databases. OAM supports CBP's mission through a multi-layered approach that includes collecting and analyzing aviation smuggling trends within the United States or transitioning across U.S. borders. This is accomplished through enhanced law enforcement technical and human collection capabilities, providing timely analysis of information to produce intelligence products, and establishing intelligence-sharing relationships with Federal, state, local, and tribal agencies and the intelligence community.

**Post-Hearing Questions for the Record  
Submitted to James A. Dinkins  
From Senator Thomas R. Carper**

**“Border Security: Frontline Perspectives on Progress and Remaining Challenges”  
April 10, 2013**

<b>Question#:</b>	1
<b>Topic:</b>	data
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Thomas R. Carper
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** One of the expert witnesses at our previous border security hearing testified that, in his opinion, our government is incapable of giving data-informed answers to key questions that I believe will be crucial as we consider what more needs to be done. Please provide detailed responses to the following key questions, including an analysis of the specific data that you are using to draw your conclusions:

We know that jobs are the “pull” for many undocumented immigrants. Would increased workplace enforcement do more to deter future illegal immigration than increased border enforcement?

Would new legal programs for lower-skilled migrants reduce the incentive to migrate illegally to the United States?

Where are the vulnerabilities for increased illegal migration the largest: at the ports of entry, between ports, or through visa overstays

**Response:** As the Secretary has often stated, worksite enforcement, including the deployment of mandatory electronic employment verification, is a critical deterrent to future illegal immigration. Worksite enforcement, combined with the promotion of legal migration for workers, are both key to effective border security.

<b>Question#:</b>	2
<b>Topic:</b>	Sequestration
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Thomas R. Carper
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Please describe, in detail, the specific impacts that Sequestration will have on your operations during FY2013. How many fewer hours, and work-year equivalents, will be worked by frontline personnel at your agencies? Will furloughs be needed?

**Response:** Sequestration will affect ICE program offices as described below.

#### **Homeland Security Investigations**

During fiscal year (FY) 2013, as of May 29, 2013, 184 GS-1811 special agents have attrited from U.S. Immigration and Customs Enforcement (ICE). We estimate that an additional 75 special agents will attrite through the rest of the year. Because ICE has reduced hiring to only a limited number of mission critical positions due to the budgetary constraints imposed by sequestration, 250 special agent positions cannot be backfilled. Given that each special agent generates an average of 1,695 investigative hours per year, ICE Homeland Security Investigations (HSI) estimates the lost investigative potential to be 423,750 investigative hours that will not be spent on criminal investigations. These numbers reflect frontline special agents only and do not capture the loss of investigative support personnel such as criminal research specialists, investigative assistants, and intelligence specialists who are needed to support special agents in the various aspects of criminal investigations. Sequestration has prevented the back fill of investigative support personnel as well.

As a result of sequestration, HSI has had to undertake considerable cost reductions that will have a significant impact on the ability of our agents and support personnel to conduct the full scope of activities necessary for successful criminal investigations. Specifically, HSI will be unable to leverage vital investigative tools such as wiretaps that are used to advance investigations and evidentiary presentations in court. Just as one example, wiretaps are an essential tool in gathering evidence against the most sophisticated transnational criminal organizations so that we are able to develop strong evidence to support indictments and prosecutions. Similarly, other investigation tools and techniques that are being impacted by sequestration include funding of special operations; investigative travel; the purchase of fuel for the investigative fleet of vehicles used for surveillance, enforcement operations, and prisoner transport; the purchase of evidence and information; investigative software licenses; and the purchase of investigative equipment such as recording, tracking, and video surveillance devices. The funding limitations that result from sequestration directly impact HSI's ability to utilize these vital investigative tools.

<b>Question#:</b>	2
<b>Topic:</b>	Sequestration
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Thomas R. Carper
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Lastly, HSI leverages undercover agents and operations to infiltrate and gain the trust of the transnational criminal organizations that HSI targets. These operations are essential to HSI's ability to infiltrate, and ultimately disrupt and dismantle, the transnational criminal organizations involved in illicit trade, travel, and finance activities that threaten our national security and public safety. HSI has one of the most successful undercover operations programs within the federal government, and these are some of the most complex investigations HSI conducts. At the reduced funding levels under sequestration, HSI will be unable to maintain the complex undercover operations currently underway or develop new undercover operations to address developing threats.

The totality of reductions to HSI's workforce and operations will ultimately reverse efforts made in recent years to increase ICE's work in human trafficking, child exploitation, commercial fraud, and counter proliferation investigations at a time when law enforcement faces increased violence and significant threats to our national security and public safety.

#### **Office of Professional Responsibility**

During FY 2013, as of May 29, 2013, 12 GS-1811 special agents have attrited from the ICE Office of Professional Responsibility (OPR) with an additional 5 to 10 GS-1811 special agents projected to leave due to attrition by the end of the fiscal year. Because ICE has reduced hiring to only a limited number of mission critical positions due to the budgetary constraints imposed by sequestration, of this total number, 20 positions cannot be backfilled. Given that each special agent generates an average of 1,695 investigative hours per year, OPR estimates the lost investigative potential to be 33,900 investigative hours that will not be spent on criminal and administrative employee misconduct investigations. OPR also has canceled mission critical training, investigation-related travel, reduced the funding for the ICE database for vetting employees, parked vehicles that require costly repairs and services, and placed facility projects on hold due to the lack of funds.

Much like HSI, OPR has felt the impact of its agents' ability to conduct the full scope of activities necessary for successful criminal investigations. Corruption does not occur in a vacuum and is often related to the same transnational criminal organizations investigated by HSI. Much of the information regarding corrupt employees is developed from confidential sources. Reduced funding will hinder OPR's ability to uncover corruption within the agency and will have an impact on national security.

Due to a decrease in available personnel, OPR will have to reduce the number of detention facility inspections in FY 2013, limiting the scope of OPR's independent review of ICE's compliance with detention standards. However, OPR uses a risk-based

<b>Question#:</b>	2
<b>Topic:</b>	Sequestration
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Thomas R. Carper
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

methodology to select the facilities most appropriate for review given its limited resources and to ensure all statutory requirements are met to determine if facilities are meeting standards.

During FY 2013, the OPR security budget was reduced by 18 percent, which will have a significant impact on personnel, administrative and physical security. This could prevent ICE from meeting goals mandated by Congress with the Intelligence Reform and Terrorism Prevention Act of 2004 relating to timeliness in scheduling, investigating, and adjudicating background investigations of employees. A failure to maintain this standard can result in a loss of delegated authority to ICE. Sequestration has also had an impact on the ability to conduct Homeland Security Data Network site surveys and accreditations for ICE field offices.

#### **Enforcement and Removal Operations**

As of May 23, 2013, 123 GS-1801 immigration enforcement agents and/or deportation officers have attrited from the ICE Office of Enforcement and Removal Operations (ICE ERO) during FY 2013. It is estimated that an additional 61 will attrite by the end of FY 2013. Because ERO has reduced hiring to only a limited number of mission critical positions due to the budgetary constraints imposed by sequestration, ERO is projecting a total of 180 positions that will not be backfilled. Sequestration will significantly restrict hiring of immigration enforcement support personnel as well. In addition, at the Law Enforcement Support Center (LESC), timeliness of critical law enforcement information sharing will be affected by slowing query response times due to staffing levels. Total Secure Communities interoperability submissions have risen exponentially with the full deployment of Secure Communities from approximately 1 million in FY 2009 to a projected total greater than 10 million in FY 2013. This increased workload combined with constrained staffing will overwhelm the LESC resulting in officers in the field not receiving critical information in a timely manner.

Mandatory cuts to travel and training will have severe operational impacts. With the deployment of Secure Communities to 100 percent of the jurisdictions in the second quarter of FY 2013, the increased number of alien interoperability submissions is expected to produce an increase in matches or "hits" of approximately 25 percent from FY 2012. However, while ERO officers will know about potential criminal aliens in their geographic areas of responsibility (AOR) as a result of these matches, due to travel constraints they will be forced to prioritize their responses. ERO data for FY13 suggests that, as compared to FY12 levels, Level 1 apprehensions will fall by two percent, Level 2 will increase by four percent, and Level 3 apprehensions will decrease by seven percent.



<b>Question#:</b>	2
<b>Topic:</b>	Sequestration
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Thomas R. Carper
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Training constraints have also resulted in the cancellation of specialized training for nearly 85 percent of the Alternatives to Detention officer workforce and the indefinite postponement of 19 Advanced Tactical Training classes for Fugitive Operations teams. While some non-mission critical training can be conducted online or on the job, deferring training puts both the organization and our officers at increased risk.

ERO will prudently use fiscal resources to ensure priority detention of mandatory and criminal threat Level 1 and 2 (identifying the most serious criminal offenses) illegal migrants. Detaining individuals under these classifications allows ICE to comply with statutory requirements and ensures the most dangerous criminals are detained.

#### **Office of the Principal Legal Advisor**

As of May 29, 2013, 45 GS-905 attorneys have attrited, including 23 non-supervisory field attorneys who are responsible for the daily support of OPLA's primary requirement—representing the U.S. Government in immigration court hearings. It is estimated an additional 13 field attorneys will attrite during the remainder of the fiscal year, bringing the total of attrited field attorneys to 36. Because ICE has reduced hiring to only a limited number of mission critical positions due to the budgetary constraints imposed by sequestration, OPLA has limited its hiring to only the most critical must-fill positions such as the agency's Ethics Officer. Consequently, OPLA is projecting a total of 54 attorney positions that will not be backfilled. Given that each field attorney is projected to complete approximately 156 cases per year, the attrition of these 36 FY 2013 field attorneys represents more than 5,616 cases and more than 20,800 hearings (an average of 3.72 hearings per case) that ICE estimates will not be completed over the next 12 months.

These numbers reflect only the impact of the loss of OPLA's frontline attorneys and do not capture the impact of the loss of OPLA's headquarters enforcement law attorneys who provide legal advice and guidance, training, and litigation support to HSI and ERO as well as OPLA's general law attorneys who support the agency in various administrative law areas.

Further, the numbers also do not reflect the loss of frontline legal support personnel who play a vital role in ensuring case files and documents are requested timely and organized appropriately in support of OPLA's litigation efforts.

OPLA's inability to backfill attorney positions will also have a negative impact on its efforts to enhance OPLA's ability to deliver a full complement of legal services to operational programs, including HSI, ERO, and Management and Administration.

<b>Question#:</b>	2
<b>Topic:</b>	Sequestration
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Thomas R. Carper
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Additionally, as a result of sequestration, OPLA has had to undertake other significant cost reductions that will have an adverse impact on the program's ability to meet operational requirements; provide adequate training to OPLA staff, agents, and officers; and support efforts related to the program's deployment of its new case management technology system, which is designed to allow attorneys to work more effectively and efficiently.

OPLA projects it will cut planned operational travel funding by approximately 72 percent this fiscal year when compared to FY 2012, significantly impacting its ability to respond to emergent short-fuse requirements and workload surges in the field and at headquarters. OPLA has reduced its training expenses by 70 percent when compared to FY 2012, severely limiting opportunities to develop field and headquarters attorney staff and reducing training opportunities for support staff to only those courses required to maintain certifications or access systems necessary to perform their duties. Finally, OPLA will not continue to fund the support contract that provides data and document entry support for its current and future case management systems. This will reduce critical resources available to assist in deployment of the new system.

Due to many of the deep cuts described above, as of May 29, 2013, ICE is not considering furloughing any personnel.

<b>Question#:</b>	3
<b>Topic:</b>	staff reductions
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Thomas R. Carper
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The FY2014 budget includes proposed cuts of more than 1,100 individuals at ICE, to include frontline personnel. How many of these proposed staff reductions will be 1811 criminal investigators? Please provide the Committee with a detailed response concerning how these reductions will impact your operations, including investigations into workplace violations, immigration violations, drug smuggling, and gun smuggling.

**Response:** Based on current attrition rates, ICE predicts that it will lose at least an additional 205 GS-1811 full-time employee (FTE) positions due to current hiring freezes preventing backfills of expected routine personnel losses in fiscal year (FY) 2014. At 1,695 investigative hours per investigative FTE, this equates to 347,475 investigative hours that will not be expended on criminal investigations. While ICE expects to see decreases in operational tempo across its operations, high priority investigations will remain a focus area.

By taking the actual FY 2013 investigatory hours and comparing them to an annual average of all hours expended per mission area from FY 2009 to FY 2013, we estimate that approximately a 3.5 percent reduction in major investigative categories will occur in each category listed below. For example:

- 22,932 fewer investigative hours will be expended on workplace violations;
- 135,015 fewer investigative hours expended on immigration violations;
- 88,712 fewer investigative hours expended on drug smuggling; and
- 21,914 fewer investigative hours expended on gun/weapons smuggling.

Please note that immigration violations encompass various investigative areas and, as such, this number is not directly comparable to workplace violations and drug smuggling, which are each separate investigative areas. Also note, gun smuggling is not an investigative area unto itself, but rather it is included in the counter proliferation investigations area, also known as strategic investigations, which includes arms, ammunition, explosives, dual-use military technology, and more. In addition, guns/weapons may be seized in various other investigative areas as a case evolves, progresses, or a specific enforcement action is taken (e.g., a search warrant).

**Post-Hearing Questions for the Record  
Submitted to James A. Dinkins  
From Senator Mary L. Landrieu**

**“Border Security: Frontline Perspectives on Progress and Remaining Challenges”  
April 10, 2013**

<b>Question#:</b>	4
<b>Topic:</b>	worksite investigations
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** You stated in your testimony that ICE broke records last year in the number of worksite investigations initiated (3,904), arrests made (240), inspections conducted (3,004), and fines imposed (\$12.5 million). And most of those records broke highs that were set the previous year. That’s a strong record of performance in the area of worksite enforcement and an encouraging upward trend.

There’s a perception among many that immigration enforcement is targeted disproportionately at unskilled laborers instead of the unscrupulous employers who knowingly hire them, and in some cases, provide them with fraudulent documents, traffic, and exploit them. Some have argued that reducing the demand for illegal labor through stricter worksite enforcement will eventually shrink supply and reduce the number of illegal entries.

What can we do to further prevent employers from hiring people who aren’t legally authorized to work in the U.S.?

Can E-Verify help employers to detect fraudulent documents that may appear legitimate?

Should we also look at increasing civil or criminal penalties as a deterrent against willful violations or repeat offenses?

**Response:** The E-Verify system is better addressed by U.S. Citizenship and Immigration Services. ICE is committed to use of criminal enforcement as a means to ensure employers do not flagrantly violate immigration employment law. Indeed, the number of employers arrested for such acts have grown from 92 in fiscal year (FY) 2007 to 240 in FY 2012, and ICE fully supports potential statutory amendments in order to provide deterrence to willful or repeat violators. Currently, criminal penalties are provided for any person or entity that engages in a pattern or practice of violations of the prohibition against hiring, recruiting, or referring for a fee an unauthorized alien, or continuing to

<b>Question#:</b>	4
<b>Topic:</b>	worksite investigations
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

employ such unauthorized alien; however, this provision is a misdemeanor and carries lower penalties (8 U.S.C. §1324a(f)). The term “pattern or practice” is defined as regular, repeated, and intentional activities, but does not include isolated, sporadic, or accidental acts (8 C.F.R. §274a.1(k)). ICE would welcome increasing criminal penalties for such pattern or practice violators. A similarly difficult provision under the current statutes relates to the criminal penalties provided for knowingly hiring at least 10 individuals within a 12-month period with actual knowledge that the individuals are unauthorized aliens and were brought into the United States in violation of law (8 U.S.C. §1324(a)(3)(A)). Using this statute in criminal investigations or prosecutions can be difficult, as knowledge of the unauthorized aliens’ manner of entry is required on the part of the employers and may be difficult to establish.

<b>Question#:</b>	5
<b>Topic:</b>	overstays
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** It is estimated that 40% of the 11.5 million people who are unlawfully present in the United States entered the country legally and overstayed their visas. In your written statement, you mentioned the Counterterrorism and Criminal Exploitation Unit that was established in 2003 to confront the problem of visa violations and overstays. You indicated that this unit initiated 3,203 national security investigations on visa overstays and violations in FY12, resulting in 1,374 arrests.

Can you explain the method used to determine whether someone has overstayed their visa?

I understand that the focus of your unit is on potential terrorists and dangerous criminals who are violating their visas. But would it be possible to share some of your methods with Citizenship and Immigration Services and the State Department so they can improve their enforcement posture against the wider population of violators who don't necessarily pose a security threat?

**Response:** Through our Counterterrorism and Criminal Exploitation Unit (CTCEU), U.S. Immigration and Customs Enforcement (ICE), proactively develops cases for investigation from information contained in the Student Exchange Visitor Information System (SEVIS) and the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) data systems. Recently, ICE and CBP have worked to improve data sharing between the SEVIS system and front line CBP inspectors to ensure they have up to date information on foreign students. These data systems house the records of millions of students, tourists, and temporary workers who are present in the United States at any given time. Based on data in these systems, as well as from other sources, ICE analyzes records of potential status violators to establish which such violators warrant field investigations to either establish compliance or departure dates from the United States. Since the creation of the CTCEU in 2003, analysts have used automated and manual review techniques to resolve the status of more than 2 million such records. Resolutions are accomplished by means such as the departure of the subject from the United States, a formal adjustment of the subject's immigration status, the criminal arrest of the subject, or the referral of the case for non-criminal formal removal.

Further, agents and analysts in ICE monitor the latest threat reports to detect and identify out-of-status individuals who exhibit specific risk factors so that they can initiate or support high-priority national security programs based on specific intelligence. This practice is based on intelligence reporting, including international travel from specific

<b>Question#:</b>	5
<b>Topic:</b>	overstays
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Mary L. Landrieu
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

geographic locations to the United States, and in-depth criminal research and analysis of dynamic social networks. This person-centric and risk-based approach to prioritization of visa overstays moves away from the traditional identification approach based on country of birth, gender, and age and ensures that the nonimmigrant overstays and SEVIS status violators who pose the gravest threats to national security are targeted.

ICE, through the work of its CTCEU and Visa Security Program, currently shares similar vetting characteristics and data with U.S. Citizenship and Immigration Services (USCIS).

ICE is committed to its partnerships with other law enforcement entities to help remediate these resource limitations. Since 2011, under the leadership of the Department of Homeland Security (DHS) Office of the Counterterrorism Coordinator, a joint effort by ICE, U.S. Customs and Border Protection, the Office of Biometric Identity Management (OBIM, previously known as US-VISIT), DHS Intelligence & Analysis, and the National Counterterrorism Center has successfully vetted the records of over 1.62 million “non-priority” foreign potential overstays contained within OBIM’s databases. This project minimized national security vulnerabilities by examining each overstay violator for classified or intelligence-based derogatory information, with any leads developed prioritized and forwarded for further review. The success of this project became the foundation for the current DHS National Security Overstay Initiative.

**Post-Hearing Questions for the Record  
Submitted to James A. Dinkins  
From Senator Tom Coburn**

**“Border Security: Frontline Perspectives on Progress and Remaining Challenges”  
April 10, 2013**

<b>Question#:</b>	6
<b>Topic:</b>	crime
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Following the discussion about border security metrics at the hearing, how should we view increasing or decreasing incidents of crime as evidence of changes in border security?

What is the current number of open internal affairs investigations in ICE?

What is Homeland Security Investigations doing to reduce internal corruption?

**Response:** While reducing crime along our borders remains a key standard of success, it is a challenge to directly link incidents of crime along our borders to specific changes in border security because it is difficult to extract the normal violence associated with a region from the violence that results specifically from border crime or that carries an immediate border nexus. Although crime rates are just one measure of border security, no one number captures the evolving and extensive nature of the border.

As of August 28, 2013, the U.S. Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR) has 784 open internal affairs investigations nationwide. On the Southwest border, OPR has 211 open internal affairs investigations. These cases are criminal and administrative investigations of both ICE and U.S. Customs and Border Protection (CBP) employees, as well as civilians (civilian cases consist of bribery, impersonation, and co-conspirators of corrupt employees). (See table below for breakdown of investigations.)

ICE has a comprehensive integrity strategy that integrates training, prevention, detection, and investigation capabilities to deter and respond to corruption and misconduct in the ICE workforce. This strategy involves collaboration with other law enforcement entities, a vigorous comprehensive screening process for new hires, and educating and training employees. OPR, composed of a cadre of criminal investigators, is responsible for investigating internal corruption and other criminal and administrative misconduct



<b>Question#:</b>	6
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<b>Committee:</b>	HOMELAND SECURITY (SENATE)

committed by both ICE and CBP employees. OPR's investigative strategy is a multi-layered approach using the full capabilities of three operational divisions—investigations, inspections, and security.

OPR's Investigations Division conducts criminal and administrative employee misconduct investigations and has personnel in 26 field offices nationwide and Puerto Rico, including an investigative unit based at ICE headquarters in Washington, D.C. OPR field offices within the Investigations Division investigate allegations of criminal and serious administrative misconduct, conducting field-delivered integrity training to ICE employees, and providing integrity guidance to all offices within their areas of responsibility.

The OPR Inspections Division evaluates and inspects ICE offices, programs, and detention facilities to ensure compliance with agency regulations and policies and applicable detention standards. The Inspections Division reviews ICE offices, programs, and processes to provide executive management with an independent review of the agency's organizational health and assess the effectiveness and efficiency of the overall ICE mission.

The OPR Security Division screens new applicants, including pre-employment security checks, followed by full background investigations and periodic background investigations every 5 or 10 years (depending on the sensitivity level of the position), as well as physical, information, operational, and counterintelligence security.

**ICE OPR OPEN/PENDING CASE INVENTORY  
(Southwest Border)  
As of August 28, 2013**

<b>Subject</b>	<b>Class</b>	<b>TOTAL</b>
<b>ICE</b>	<i>Criminal</i>	27
	<i>Administrative</i>	24
<b>ICE Total*</b>		<b>51</b>
<b>CBP</b>	<i>Criminal</i>	125
	<i>Administrative</i>	7
<b>CBP Total*</b>		<b>132</b>
<b>Others</b>	<i>Criminal</i>	28

<b>Question#:</b>	6
<b>Topic:</b>	crime
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

<b>Others Total**</b>	<b>28</b>
<b>TOTAL</b>	<b>211</b>
<b>Criminal</b>	<b>180</b>
<b>Administrative</b>	<b>31</b>
* ICE and CBP stats include employees and contractors	
** Others include civilians, detainees, employees of other DHS agencies	

**Post-Hearing Questions for the Record  
Submitted to James A. Dinkins  
From Senator Jon Tester**

**“Border Security: Frontline Perspectives on Progress and Remaining Challenges”  
April 10, 2013**

<b>Question#:</b>	7
<b>Topic:</b>	unauthorized immigrants
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Roughly 40 percent of the unauthorized immigrants already in the U.S. entered legally through a port of entry and subsequently overstayed their visa. There has been great discussion about the weaknesses in the processes for identifying, monitoring and apprehending individuals who overstay their visas. Our ongoing struggles to track these individuals after they are admitted into the country are particularly troubling. Is this an issue of inadequate manpower, resources or focus? Are there any statutory obstacles impeding your efforts?

**Response:** U.S. Immigration and Customs Enforcement (ICE) remains focused on the overstay issue and continues to balance a finite amount of manpower and financial resources to prioritize the investigation of those individuals who first and foremost present a danger to national security or public safety.

ICE is committed to its partnerships with other law enforcement entities ensure we focus on ICE priorities. Since 2011, under the leadership of the Department of Homeland Security (DHS) Office of the Counterterrorism Coordinator, a joint effort by ICE, U.S. Customs and Border Protection (CBP), the Office of Biometric Identity Management (OBIM, previously known as US-VISIT), DHS Intelligence & Analysis, and the National Counterterrorism Center has successfully vetted the records of over 1.62 million “non-priority” foreign potential overstays contained within OBIM’s databases. This project minimized national security vulnerabilities by examining each overstay violator for classified or intelligence-based derogatory information, with any leads developed prioritized and forwarded for further review. The success of this project became the foundation for the current DHS National Security Overstay Initiative.

In addition, since FY 2011, a unified working group comprised of DHS components – CBP, ICE, the National Protection and Programs Directorate (NPPD), and Policy – has made substantial improvements to maximize our ability to identify, prioritize, and sanction confirmed overstays.

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As of April 9, 2013, DHS has implemented the following system updates:

- Automation of the flow of information between the DHS Arrival and Departure Information System (ADIS) and the Automated Targeting System for Passengers (ATS-P): CBP has updated the flow of information between ADIS and ATS-P to reduce manual processes for moving data between the two systems. This update saves time, improves processing quality, increases efficiency, and better protects privacy, as the transfer of information occurs through secure electronic means instead of manually saving information on portable devices.
- Use of ATS-P to enhance name matching for overstay vetting: CBP has leveraged existing ATS-P matching algorithms, previously not available to ADIS, for the purposes of better matching names in entry and exit records, thereby improving the accuracy of the overstay list. Additional matching algorithms have helped identify matches that the original ADIS system may have missed.
- Development of Basic ICE Overstay “Hot List”: CBP created an operational dashboard for ICE agents that automatically lists and prioritizes validated records of individuals who may have overstayed and who are likely still in the United States, pursuant to national security and public safety criteria. This reduces the previous manual process in the exchange of data between NPPD/OBIM and ICE and allows ICE to allocate resources to those cases of highest priority, on a near real-time basis.
- Implementation of an ADIS to IDENT interface: This effort created an interface between IDENT (the biometric database for DHS) and ADIS, the two systems currently housed at OBIM [1]. This helps reduce the number of records on the overstay list by providing better quality data from IDENT to ADIS and closing information gaps between the two systems.
- Improved ability of ADIS to match United States Citizenship and Immigration Services’ (USCIS) Computer Linked Adjudication Information Management System (CLAIMS 3) data: The Department has worked to improve the quality, timeliness, and relevance of data sent from CLAIMS 3 to ADIS, thereby improving the ability of ADIS to match the data accurately with other records. Many aliens enter the United States and then extend or change their status lawfully, and therefore have not overstayed even though their initial period of authorized admission has expired.

By mid-FY 2014, DHS plans to develop and deploy:

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<b>Committee:</b>	HOMELAND SECURITY (SENATE)

- **Unified Overstay Case Management process:** Through a data exchange interface between ADIS and ICE's LeadTrac system [2], overstay case management work is being migrated to one analyst platform, LeadTrac, for DHS. Additionally, ADIS will receive enhanced overstay case management updates from ICE.
- **Enhanced ADIS and Transportation Security Administration (TSA) Alien Flight Student Program (AFSP) data exchange:** TSA relies on ADIS to identify overstays who are enrolled in the AFSP and provides the identified overstays to ICE for action. ADIS will utilize existing overstay vetting operations to increase efficiency and prioritization of TSA AFSP overstays within the ADIS overstay population.
- **Enhanced Overstay Hot List:** DHS will expand the capability, including the use of additional law enforcement and counterterrorism data, in the Hot List for ICE.
- **User Defined Rules:** DHS will develop a capability for ICE agents to create new or update existing rule sets within ATS-P as threats evolve, so that overstays are prioritized for review and action based on the most up-to-date threat criteria.

The measures already in place have proven to be valuable in identifying, removing, and sanctioning overstays. They have strengthened data requirements, identified national security overstays, and automated manual efforts. ICE looks forward to continuing this progress in FY 2014.

<b>Question#:</b>	8
<b>Topic:</b>	data swapping
<b>Hearing:</b>	Border Security: Frontline Perspectives on Progress and Remaining Challenges
<b>Primary:</b>	The Honorable Jon Tester
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** To help address the issue, we have previously discussed increased data swapping of entry information between Canadian and U.S. officials at land Ports of Entry. If both sides are only closely documenting individuals coming in, why couldn't we exchange lists to determine which non-US citizens are leaving the country? We would subsequently check these lists against our immigrations records. Is there currently any such data exchange going on between U.S. and our neighboring governments? Are there other ways we can monitor this traffic without infringing upon the privacy rights of our citizens?

**Response:** As part of the *Beyond the Border* (BTB) Declaration and Action Plan issued by President Obama and Canada's Prime Minister Harper in 2011, the United States and Canada are developing a coordinated Entry/Exit Information System at their shared land border. The Entry/Exit Information System facilitates exchanges of entry information such that an entry into one country is considered an exit from the other. This exchange will help better manage immigration program and border management practices, as it is important for Canada and the United States to determine when individuals both enter and depart our respective countries. For example, an Entry/Exit Information System will help determine whether third country nationals and permanent residents are complying with domestic immigration laws. This project can help move us closer to meeting this need through mutual collaboration and without expensive new infrastructure or unnecessary processing that would slow down trade and travel between the two countries.

The Entry/Exit Information System is being implemented in three phases. During the first phase, which began in September 2012 and concluded in January 2013, the countries exchanged biographic entry data only on third country nationals and permanent residents (but not U.S. or Canadian citizens) that crossed the common land border at four locations.

The biographic entry data was exchanged using secure means previously established between the Department of Homeland Security (DHS) and the Canada Border Services Agency (CBSA). The information was then reconciled against existing entry records already held for those individuals.

On June 30, 2013, both countries began Phase II, whereby biographic information collected on third-country nationals, lawful permanent residents of the United States, and permanent residents of Canada at all automated common northern land border ports of entry (land, ferry and pedestrian), are exchanged. On June 30, 2014, the Entry/Exit

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Information System countries will expand the program to include the exchange of biographic data on all travelers (including U.S. and Canadian citizens) who cross at all automated common land border ports of entry (Phase III).

It is also important to note that this entire effort is being coordinated closely with DHS's Office of Privacy and Office for Civil Rights and Civil Liberties to ensure that all appropriate steps are taken to protect individuals' privacy. The process of collecting and sharing personal information is being done in accordance with each country's privacy laws and policies. It is also consistent with the Action Plan, Joint Statement of Privacy Principles, and an Annex to the Statement of Mutual Understanding on Information Sharing signed by DHS and the CBSA. The United States and Canada are currently completing Privacy Impact Assessments for Phase II, which will be available on the U.S. Customs and Border Protection and CBSA web sites before the implementation of Phase II. A system of records notice has also been published in the Federal Register for the requisite 30 days.





**BORDER SECURITY: EXAMINING PROVISIONS  
IN THE BORDER SECURITY, ECONOMIC  
OPPORTUNITY, AND IMMIGRATION  
MODERNIZATION ACT (S. 744)**

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**TUESDAY, MAY 7, 2013**

U.S. SENATE,  
COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:30 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Thomas R. Carper, Chairman of the Committee, presiding.

Present: Senators Carper, Landrieu, Baldwin, Heitkamp, Coburn, McCain, Johnson, Portman, and Paul.

**OPENING STATEMENT OF CHAIRMAN CARPER**

Chairman CARPER. Good morning, everyone. The hearing will come to order. Dr. Coburn and I are delighted to welcome all of you today.

This is the third of a series of hearings that this Committee is holding to examine the gains in security that have been made at our borders over the past decade and to review what impact immigration reform may have on those borders. During our two previous hearings, we heard testimony from experts, including some folks at this table today, and from frontline personnel about the dramatic improvements we have seen in portions of our southern border region since the last time that Congress debated immigration reform 7 years ago, in 2006.

In recent years, we have made substantial investments in border security. I believe those investments are for the most part paying off. In 2006, the Border Patrol was averaging more than 1 million arrests of unauthorized immigrants each year—1 million per year—and the unauthorized population living in the United States had reached an all-time high of 12.5 million people.

Since then, we have added more than 9,000 Border Patrol agents, bringing their overall staffing level to more than 21,000. We have also constructed some 600 miles of new fencing and deployed sophisticated cameras, sensors, and radars across a good part of our border with Mexico. In part because of these investments, apprehensions of individuals attempting to cross our borders illegally are at a 40-year low, and the unauthorized population in our country has actually decreased by about a million people.

Despite all these developments, we are still facing challenges. All too often, however, these challenges have deep roots in our own domestic policies and the socio-economic conditions of our neighbors. One of our witnesses noted that we look to the border to solve problems that do not originate there. I could not agree more. We need to focus on the underlying causes of illegal immigration and drug smuggling.

The expert and frontline witnesses at our hearings earlier this year were all in agreement that passing immigration reform would make our borders more secure. It will do so by addressing several of the root causes of illegal immigration, providing workers and employers with legal avenues to fill the jobs that our economy needs to thrive, and allowing our border officials to focus their efforts on criminals rather than on economic migrants.

I believe that the bill we are examining today represents a significant step toward achieving that goal. It will increase our security even as it provides a fair, practical, and tough path to citizenship for many—but not all—of the millions of people living in the shadows today. I want to commend eight of our colleagues—especially Senator John McCain, a Member of our Committee—who have worked tirelessly, and I think fearlessly, to craft the bill on which we are discussing today. I look forward to debating that bill on the Senate floor later this spring.

The goal of today's hearing is to review the bill's border security provisions, which are in this Committee's jurisdiction. We have before us an excellent panel of witnesses from frontline agencies. We have asked the witnesses to give us their assessment of the bill, to tell us how they would implement the border provisions, and to let us know what they believe they may need—or that we may need to add or to change to that bill.

There is an old Chinese proverb—and some of you have heard me say this before—that goes something like this: "Tell me, I will forget. Show me, I may remember. Involve me, and I will understand." That is why I have tried to visit as much of the border region as I can. Three years ago I visited the California border—many of you have, too—and over the past 3 months, I have been privileged to go down to the border in Arizona with Senator McCain, Representative Michael McCaul, who chairs the House Committee on Homeland Security, and with Janet Napolitano, our Secretary of the Department of Homeland Security (DHS). I have been up to the Canadian border with Senator Carl Levin. We have been over to Texas just in the last week checking out some of the area in the eastern portions of that country. We have a lot of people coming across the border that are not from Mexico. They are coming from places other than Mexico, as you know.

But I have personally witnessed the challenges that our brave men and women working on the frontlines face every day. Some of you have, too. We have witnessed the terrain they are dealing with that varies widely along the border region, from the dense urban landscape of the border near San Diego, to the desolate and rugged desert and mountains of Arizona, to the lush vegetation and winding lengths of the Rio Grande Valley in Texas. We have some places along the border, on the Rio Grande, where we actually looked to the north was Mexico, and you looked to the south was

Texas. A pretty amazing realization, and lush, almost hard to penetrate vegetation along much of that river.

Based on what I have seen, I believe there is no one-size-fits-all solution for securing our border. The high-tech radars that work so well in Arizona today will not penetrate much of the dense foliage along the Rio Grande in Texas that I saw last week. The drones that the Customs and Border Protection (CBP) flies work great in some areas, but can barely fly in others when the winds exceed 15 knots, which is often. Achieving the goal of persistent surveillance set by the bill we are examining today, then, will be challenging and costly. However, it is not impossible.

There are, for example, a number of common-sense steps that we can take to get better results along our borders. One of them should be identifying and deploying what I call force multipliers that are appropriate for the different sectors along our border. In some parts of the border, these may be advanced radar systems on drones. In others, it may be camera towers or systems that are handheld or mounted on trucks. We need to systematically identify the best technologies with your help and those of your colleagues so that we will make our frontline agents more effective and provide them with the help that they need to be more successful in a cost-effective way.

One specific thing I have seen firsthand is that an aircraft without an advanced radar sensor onboard to help detect illegal activity on the ground is of very little value. Far too many of the aircraft we deploy in support of the Border Patrol are not fitted with cameras or sensors that have been proven effective. In McAllen last week, where I visited, we are flying three different types of helicopters, but only one of them is outfitted with these kinds of technologies. The other two are largely ineffective. We have to be smarter than this.

By comparison, in Arizona I saw an inexpensive single-engine C206 airplane that had been fitted with an advanced infrared camera system, which had proven to be extremely effective and inexpensive to operate. However, the Border Patrol has 16 more of these C206 aircraft that do not have any advanced sensors on board and are barely used. In fact, they are almost worthless. We need to fix that. And it is not all that expensive. We also need to continue to develop and deploy cost-effective technologies, such as handheld devices that I have seen that allow Border Patrol agents to see in the dark or enable our officers at our ports of entry to more efficiently process travelers and goods.

Investing in our ports of entry will also be an incredibly important part of improving border security and our economy as well. I am pleased, then, that the proposed legislation we are discussing would provide some 3,500 new officers at legal border crossings nationwide. These officers represent a worthwhile investment for the country, helping to secure our borders even as they facilitate the trade and travel that our economy so badly needs. These 3,500 new officers cost a fair amount of money, and we have an obligation to figure out how to pay for that. And I believe those who have been working on this legislation that is before us today have been working on that, and the Administration has, too. There are some good ideas. Hopefully we will implement those.

However, there are some things that I believe may be missing from the immigration reform bill. I plan to work with all of our colleagues here in the Senate to address them. One of the largest issues we are facing today is growing unauthorized immigration from Central Americans who transit through Mexico. I want to hear from our witnesses about what we can do to address this issue, not just address the symptom of the problem, which I saw firsthand in a detention center with 1,100 mostly Salvadorans, Guatemalans, and Hondurans, a few Mexicans, last week in Texas. One thing that we may need to explore is how to make it easier for our border officials to work with and train their Mexican counterparts in order to help Mexico secure its own borders.

Finally, I also believe that the Department of Homeland Security needs to do a much better job of measuring its performance at our borders and that these performance measures must be made available to Congress and to the American people. If we have not heard anything else in these hearings before, we need to be able to measure what we are doing, what you are doing. We need to be able to do that in an objective way that people understand, that we understand, and that you understand.

The bill we are discussing today would make one such measure—we call it the “effectiveness rate”—public. And while this is a good first step, I believe there are a number of other metrics concerning our activities at and between the ports of entry that should also be made publicly available. I look forward to exploring these questions with our panel and believe our country stands to benefit enormously from the tough, practical, and fair policies laid out in this bill. I especially look forward to working with Dr. Coburn and all of our colleagues on this Committee.

Dr. Coburn.

#### **OPENING STATEMENT OF SENATOR COBURN**

Senator COBURN. Thank you. I want to welcome you all here. I am excited to hear the discussion and interchange between what our Inspector General (IG) has said are problems and the answers to those problems.

I think the Immigration and Customs Enforcement (ICE) and Customs and Border Protection have a difficult job, oftentimes thankless, so I want to thank you now for what you do. It is hard.

I am concerned with the immigration bill coming forward and the additional responsibilities that are going to be placed through that bill, if it were to become law, on the capability of the agencies to actually carry it out. And the reason I am concerned is because there are so many areas where we are not effective today. And although we have an immigration problem, what we really have is a border control problem and a visa problem and a guest worker problem. And it is important that we fix the real disease, not the symptoms. We do not have a secure border today, and we know that by the apprehensions. Even though they are less, it is still not secure. And I have a lot of concerns coming forward with the immigration bill. We will wait and see what happens in the markup. I think we made a mistake and we should have asked for sequential referral on it, because so much of it is going to impact the agency that is under the direction of this Committee.

Nevertheless, I am very appreciative of the hard work of those giving testimony today, and I especially want to thank Anne Richards for her hard work and the outlining that she has done. We have some other concerns, especially on the drone program. We have inquired and not received adequate answers yet in terms of the privacy protections. We have had that letter in for, I think, over a month and have not gotten appropriate answers or satisfactory answers to those questions. And that is one of the things that has to be a part of any drone program.

I look forward to your testimony. Again, I thank you for your efforts. And I think what Senator Carper has put forward is we really want to work as a Committee to help you accomplish your jobs, not throw up roadblocks but actually find out what the real problems are, what we can do about it, but also hold you accountable for the things that you can be doing that you are not doing today as outlined by the IG.

So thank you, Senator, and I appreciate our panelists.

Chairman CARPER. Thank you.

Let me just dovetail, before I introduce our witnesses, on what Dr. Coburn has just said. Some of you have heard me tell this story before, but most of you have not.

About a year or two ago, I was walking into the Special Olympics basketball tournament in Delaware. We were having it at the University of Delaware Bob Carpenter Center. And I walked in with one of the best high school basketball coaches in our State. We were walking in and I said to him, "Coach, you have been doing this for a long time, coaching basketball. Who are the best players? Who are the best players on the team? Is it the person who is the best shot, the best rebounder, the best dribbler, the best passer? Who in your mind is the most valuable player?"

And he said, "The most valuable player on every team I have ever coached are the players who make everybody else better."

Think about that. The most valuable player on every team he has ever coached are those who make everybody else on the team better.

We do a lot of oversight on this Committee and I think we are pretty good at it, getting better. But part of our responsibility is to find out how we make you better and the people that work with you better, the thousands of people that are down on the Mexican border, from California all the way over to the Gulf of Mexico and all up on the northern border as well. How can we make those people, your colleagues, better? That is what we are about.

All right. With that having been said, I am going to introduce our witnesses. Our first witness is the Hon. David Heyman, Assistant Secretary for Policy at the Department of Homeland Security. Nice to see you. As head of the Office of Policy, Mr. Heyman leads a team of experts to provide strategy and policy development for the Department. Prior to his appointment in 2009, Mr. Heyman served in a number of leadership positions in academia, government, and the private sector.

Our second witness is Kevin McAleenan. Acting Deputy Commissioner of U.S. Customs and Border Protection. In this capacity, Deputy Commissioner McAleenan is the chief operating official of Customs and Border Protection. He previously served as the Acting

Assistant Commissioner of the agency's Office of Field Operations, leading its port security and trade operations. Welcome.

Our third witness is Michael Fisher—nice to see you, sir—Chief of the U.S. Border Patrol. Chief Fisher is responsible for planning, coordinating, and directing enforcement efforts to secure our Nation's borders. Prior to his current position, Chief Fisher served in a number of leadership positions within the Border Patrol, which he first joined in 1987. The Chief is joining us today for questions and answers and will not be giving an oral statement.

Our next witness is Daniel Ragsdale, Deputy Director and Chief Operating Officer for U.S. Immigration and Customs Enforcement. Prior to this assignment, Mr. Ragsdale served as Executive Associate Director for Management and Administration at the agency. Previously, Mr. Ragsdale worked at the former U.S. Immigration and Naturalization Service's Office of General Counsel and served as an attorney in New York and in Arizona.

Our final witness is Anne Richards, Assistant Inspector General for Audits at the Office of the Inspector General within the Department of Homeland Security. She joined the Office of Inspector General in 2007. She was previously Assistant Inspector General for Audits at the U.S. Department of Interior from 2005 to 2007. And from 1984 to 1999, she worked with the U.S. Army Audit Agency.

I want to thank all of our witnesses for being here, and we will now turn to Assistant Secretary Heyman for his opening statement. Please proceed. Your entire statement will be made part of the record, and we look forward to responding and asking questions. Thank you. Thanks for joining us.

**TESTIMONY OF HON. DAVID F. HEYMAN,<sup>1</sup> ASSISTANT SECRETARY FOR POLICY, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. HEYMAN. Thank you, Chairman Carper, Ranking Member Coburn, and Members of the Committee. It is my distinct pleasure to be here today, this morning, along with my colleagues from ICE and CBP and our Inspector General's Office. It is also almost 4 years exactly to the day since this Committee gave me the honor and privilege to serve our Nation here at the Department of Homeland Security. Thank you for your continued support.

I would like to begin by commending the work of the bipartisan group of Senators who have put forward the current bill that we are discussing today. We all recognize that our immigration system is broken and that we can no longer ignore the problem. We need a system that meets the needs of law enforcement, businesses, immigrants, communities, and our economy. This legislation will attract skilled workers, encourage economic growth, and bring persons living unlawfully out of the shadows, making them right with the law, ensure that they pay penalties and back taxes and regularize their status. I applaud the Congress' efforts, and I look forward to continuing to work with you on this issue.

The focus of this hearing is border security and how it relates to this bill. One of the principal missions of the Department of Homeland Security is to secure our Nation's borders, to prevent the ille-

<sup>1</sup> The prepared statement of Mr. Heyman appears in the Appendix on page 322.

gal entry of people, drugs, weapons, and contraband while expediting legitimate trade and travel. I think it is important for the public to appreciate the extraordinary breadth and vitality of our U.S. borders and the work that DHS does every day securing them. So let me begin by describing an average day at our borders.

On a daily basis, DHS processes over 1 million inbound travelers entering the United States by air, land, and sea. We pre-screen over 2 million passengers before they fly into, out of, within, or over the United States. We patrol over 3.4 million square miles of U.S. waterways and 5,000 miles of diverse terrain on our northern and southern borders. We screen all cargo coming to and entering the United States. We manage a Trusted Traveler program with over 1 million individuals enrolled. We process well over 700 vessels in the maritime environment delivering goods to our businesses, homes, and communities. And we verify the identities and vet hundreds of thousands of visa applicants and individuals seeking to enter the United States every day.

In the process of all of this work, ICE, CBP, and our U.S. Coast Guard will seize over 20,000 pounds of drugs at or near our ports of entry. We stop over half a million dollars daily of counterfeit currency from entering our financial system. Our Homeland Security Investigations (HSI) unit will arrest over 100 individuals who have violated immigration or customs laws. And we will remove and return an average of 1,200 individuals daily who are unlawfully present. That is what we do daily, 24/7, 365 days a year.

It is essential to note, however, that the way we manage border security today has changed significantly over the past 10 years. During the last 4 years in particular, the Obama Administration has made crucial investments in border security, adding personnel, improving technology and strengthening infrastructure.

As Secretary Napolitano has previously stated, our borders have never been stronger.

First, we have made our ports of entry much more efficient, facilitating lawful trade and travel.

Second, we have expanded our partnerships with the Federal, State, and local partners and territorial law enforcement as well as with the private sector.

Third, internationally we continue to improve partnerships to deter illegal smuggling and trafficking and improve intelligence and information sharing so that we can identify threats well before they reach our shores.

The numbers speak for themselves. In 2004, the Department had a total of 10,000 Border Patrol agents. Today we count 21,000. At the southwest border, we have increased our Border Patrol agents by nearly 94 percent. And in the northern border, we have 2,200 Border Patrol agents. We have increased the number of CBP officers (CBPOs) who secure the flow of people and goods into our Nation to over 21,000 officers, up from 17,000 in 2003.

As my colleagues with me today will tell you, these enhancements have resulted in greatly improved enforcement procedures, trade facilitation, and outcomes.

In order to support a modern immigration system, the Department also understands that we must have the ability to effectively track not only who enters our country, but also how and when they

exit. For two decades, the Federal Government has worked to obtain accurate and timely data on individuals who have overstayed their period of admission to the United States.

However, the United States did not build its border, air, and immigration infrastructure with exit processing in mind. Airports do not have designated exit areas for departing passengers or specific checkpoints where a passenger's departure is recorded by an immigration officer, as you have seen in other countries. So it has been a challenge. Even so, over the past decade, DHS piloted various programs in 15 airports to try to achieve such a system. We found that the limitations of existing technology plus the lack of infrastructure for departing passengers would drive the cost of a program to nearly \$3 billion or more, while disrupting air travel for passengers and airlines alike.

Secretary Napolitano found that to be unsatisfactory, and in 2010, she directed the Department to enhance the existing exit system to a level of fidelity equal to or nearly equal to a biometric system while continuing to pursue a more cost-effective solution in the future.

Over the past 3 years, I am pleased to say that the Department has taken steps to implement affordable measures to achieve those goals. Through enhancements to our current system, which electronically matches the information on an individual's passport at arrival and departure, DHS can now identify and target for enforcement those who have overstayed their period of admission and represent a public safety/international security threat. We take action against those, and, moreover, we continue to move forward with building a biometric system and advance the requisite technologies to be integrated into the system when it is cost-effective and feasible to do so. This marks a significant step forward.

Let me conclude by saying that over the past several years the Department has made substantial gains in border security. We have significantly reduced the flow of illegal immigration. We now have a historic opportunity to strengthen our economy, improve our security, and address illegal immigration. It is time for common-sense reform of our immigration system.

I thank the Committee for their work on this today. I look forward to working with you and to answering your questions. Thank you.

Chairman CARPER. Thanks, Mr. Heyman. Mr. McAleenan.

**TESTIMONY OF KEVIN K. MCALEENAN,<sup>1</sup> ACTING DEPUTY COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. MCALEENAN. Good morning, Chairman Carper, Ranking Member Coburn, and distinguished Members of the Committee. Thank you for the opportunity to be here today and appear before you.

On behalf of the men and women of U.S. Customs and Border Protection, Chief Fisher and I appreciate the Committee's leadership and commitment to ensuring the security of the American people, and we look forward to discussing the progress we have made

<sup>1</sup> The prepared statement of Mr. McAleenan appears in the Appendix on page 322.



in strengthening the border and how comprehensive immigration reform will build on our successes and improve the security and safety of the United States.

With your support, CBP has made historic investments in border security, adding more personnel, technology, and infrastructure; making our ports of entry more efficient to lawful travel and trade; deepening partnerships with Federal, State, tribal, local, and international law enforcement; improving intelligence and information sharing to identify threats sooner; and strengthening entry procedures to protect against the use of fraudulent documents. We have deployed proven, effective technology to the border, tailored to the operational needs of our agents on the ground, and strengthened our air and marine interdiction capabilities.

Today, after 10 years of investments in training and equipment and improved information sharing, our border is more efficiently managed and stronger than ever before.

The framework articulated in the comprehensive immigration reform bill has the potential to advance these efforts further. The bill would continue to strengthen security at our borders as well as it would hold employers more accountable if they knowingly hire undocumented workers. It would also modernize our legal immigration system, providing lawful pathways for important categories of workers for our economy. CBP will continue to work with Congress on these much-needed reforms that will help make our border more secure.

We are now more capable than ever in our efforts to secure the border between ports of entry. We have doubled the number of Border Patrol agents; deployed surveillance systems, both static and mobile; we have improved intelligence collection and provided critical situational awareness in support of our agents and officers on the ground.

Primary fence and vehicle barricades in strategic locations have limited the options available to smuggling organizations to operate, and aerial platforms with advanced technology have substantially increased situational awareness, enhancing the way we deploy our resources on the ground and leading to increased operational effectiveness on the southwest border.

Additionally, over the past 2 years, advanced assessment of enforcement data has produced programs such as the Consequence Delivery System, which has allowed us to reduce the percentage of apprehensions that result in a voluntary return from 41 percent in 2011 to 22 percent in 2012. Moreover, Consequence Delivery has contributed to the reduction in the overall rate of recidivism from a 6-year average of 24 percent to 12 percent today.

At our ports of entry, we have increased the number of CBP officers facilitating the secure flow of people and goods into our Nation from approximately 17,000 customs and immigration inspectors in 2003 to more than 21,000 CBP officers and 2,300 agricultural specialists today.

In fiscal year (FY) 2012, CBP officers arrested 7,700 people wanted for serious crimes, including murder, rape, assault, and robbery. Our officers also stopped nearly 145,000 inadmissible aliens from entering the United States through our ports of entry.

To build on these successes, the Administration's fiscal year 2014 budget includes a request for 3,477 new CBP officers. Of this amount, 1,600 are requested through appropriated funding, and legislative changes to user fee collections are recommended to fund an additional 1,877 officers. These new officers will support economic growth and promote the creation of new jobs.

A recent study released by the Center for Risk and Economic Analysis of Terrorism Events at the University of Southern California has found that an increase in staffing at ports of entry has an impact on wait times and transaction costs and, therefore, on the U.S. economy. According to the study's results, the new CBP officers supported in the fiscal year 2014 budget request could generate an estimated 115,000 new jobs each year and increase the gross domestic product (GDP) by up to \$7 billion.

To build on these successes, efforts to strengthen security at our borders must continue as threats evolve. This bill will enable CBP to continue to expand the use of proven technologies, to secure the land and maritime borders, strengthen and enhance capabilities at ports of entry, and combat illicit border activity. Immigration reform will allow us to build upon the progress we have already made and strengthen our ability to assure a safe and thriving border.

Thank you once again for inviting us to appear today. Chief Fisher and I welcome the opportunity to discuss the significant progress that CBP has made in strengthening our Nation's borders and answering any questions you may have. Thank you.

Chairman CARPER. Thanks very much.

Chief Fisher, I understand you are not here to testify. I would just ask: Do you approve this message?

Mr. FISHER. Without reservation, Chairman.

Chairman CARPER. Thanks very much. OK, good.

All right. Mr. Ragsdale, you are on. Thanks. Welcome. Glad you are here.

**TESTIMONY OF DANIEL H. RAGSDALE,<sup>1</sup> DEPUTY DIRECTOR,  
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DE-  
PARTMENT OF HOMELAND SECURITY**

Mr. RAGSDALE. Thank you. Good morning, Chairman Carper, Ranking Member Coburn, and Members of the Committee. Thank you for the opportunity to testify today on the ongoing efforts to adopt important reforms to our immigration system.

ICE is the largest investigative agency in DHS and the second largest in the Federal Government. The men and women at ICE every day play a critical role in securing the border and carrying out smart and effective immigration enforcement policies.

Since its creation 10 years ago, ICE has made tremendous strides and realized considerable law enforcement results. For example, ICE's Homeland Security Investigations has made over 34,000 criminal arrests in fiscal year 2012. This record number represents an increase of nearly 30 percent over 2009. Many of these convictions came in areas directly tied to our border and our

<sup>1</sup> The prepared statement of Mr. Ragsdale appears in the Appendix on page 322.

Nation's immigration system, namely, document and identity fraud, customs violation, human smuggling, and trafficking.

ICE HSI has also developed the Illicit Pathways Attack Strategy (IPAS). This initiative supports the Strategy to Combat Transnational Organized Crime by focusing on international organizations engaged in narcotics, weapons, human smuggling and trafficking, cyber crime, and illicit finance.

ICE has also set records in our civil immigration enforcement. We have done this by setting and carrying out smart, clear priorities. For instance, this year ICE's enforcement and removal operations removed a record number of individuals from the country. Fifty-five percent of those individuals, more than 225,000, had been convicted of felonies or misdemeanors. Yet another record of 96 percent fell into our full priority categories. These successes could not be achieved without the implementation of smart and effective and efficient policies issued by Secretary Napolitano and Director Morton.

We were also proud of our key partnerships across the Federal Government. For example, I note ICE's Office of Professional Responsibility's (OPR) ongoing and strong relationship with our colleagues at CBP. For example, in 2010, ICE and CBP entered into a Memorandum of Understanding (MOU) regarding investigations into CBP employee misconduct. This collaboration was not available before the MOU and has solidified ICE's commitment to fostering CBP's awareness and involvement into criminal investigations involving CBP employees. Our existing relationship has laid the groundwork for continued success in the critical area of ensuring the integrity of the workforce at the border. Maintaining this relationship will be critical following any reforms that involve increased staffing levels at the border.

In addition, ICE plays an important role in investigating cases referred from CBP. Since fiscal year 2009, referrals have increased 4.1 percent at the ports of entry and 25 percent between the ports of entry. This relationship between our two agencies has made America safer.

All of these successes are the result of reasonable immigration policies and priorities. Even at this time of budget uncertainty, we are using our resources in a smart, effective, and responsible manner. In order to build on these gains and further enhance national security, public safety, and border security, we must update our immigration laws.

The adoption of reforms like those in the current bill will allow our agents and officers to better focus on those who threaten public safety, border security, and provide us the tools we need to crack down on those who cheat the system by hiring illegal labor.

We at ICE look forward to working with you to modernize our immigration laws in a manner that strengthens the system. Thank you again for the opportunity to testify, and I look forward to answering any questions you have.

Chairman CARPER. Mr. Ragsdale, thanks very much.

Ms. Richards, good to see you. Please proceed.

**TESTIMONY OF ANNE L. RICHARDS,<sup>1</sup> ASSISTANT INSPECTOR  
GENERAL FOR AUDITS, OFFICE OF INSPECTOR GENERAL,  
U.S. DEPARTMENT OF HOMELAND SECURITY**

Ms. RICHARDS. Good morning, Chairman Carper, Ranking Member Coburn, and Members of the Committee. Thank you for inviting me to testify today.

You asked that we focus on the steps we believe the Department will need to take to ensure that the metrics in the Border Security, Economic Opportunity, and Immigration Modernization Act are verifiable and enforceable. In preparing our testimony, we reviewed the results of audits and inspections of both border security and immigration programs. I will highlight only a few of those reports in my statement this morning.

In the last 10 years, DHS has made progress in coming together as a Department and in accomplishing its fundamental missions, including securing our borders. However, numerous challenges remain.

To implement this proposed legislation, DHS will need to fully assess its current status, methodically identify needs and requirements, and meticulously plan and execute future acquisitions and operations. This effort will require both time and resources, but ultimately the Department should be able to master this challenge.

Today I will highlight three overarching issues that we identified in our audits and inspections that the Department will need to address to achieve the goals and standards set forth in this act: data reliability, planning, and systems modernization.

The first issue I would like to discuss is data reliability. To evaluate its performance and carry out certain actions in the proposed act, DHS will need complete, accurate, and up-to-date information. In our reviews, we identified many programs and systems that did not have complete and accurate data. We also identified instances in which DHS did not have data that it needed from other entities.

For example, in a December 2011 report, we determined that ICE officers making decisions about detentions or release of criminal aliens did not always maintain accurate and up-to-date information in the case management system. Late last year, we reported that in the Systematic Alien Verification for Entitlements Program (SAVE), immigration status information was sometimes outdated and erroneous, so some people were mistakenly identified as having lawful immigration status when they did not have it. This could mean that some individuals would be given benefits that they were not entitled to receive.

In our audit of the Free and Secure Trade (FAST), program, we found that CBP could not ensure that Mexican participants are low risk because Mexico does not share information to assist CBP in continuously vetting and monitoring participants' eligibility. Also, ineligible drivers may have continued to participate in the program because CBP used incomplete data for the continuous vetting process.

The second overarching area the Department needs to address is planning. To fully accomplish the actions laid out in the act, such

<sup>1</sup> The prepared statement of Ms. Richards appears in the Appendix on page 328.

as increased surveillance on the southern border, the Department will need to have an effective planning process to identify operational requirements. For example, the act requires 24/7 monitoring of the border by unmanned aerial systems. The Department will need the operating requirements, including knowing the necessary quantity of aerial vehicles, ground support, maintenance, fuel, and where those resources will be needed. The Department has established directives and policies for planning, but does not yet have detailed plans completed for unmanned aerial systems.

Last, the Department will need to address some longstanding business and information technology (IT) systems challenges and continue to pursue additional technologies to address border security issues. Although DHS is taking steps to upgrade and integrate its business and IT systems, including those related to immigration, it has not yet succeeded in fully transforming them.

For example, in a report issued in late 2011, we noted that the U.S. Citizenship and Immigration Services (USCIS)' transformation has been delayed and that it continues to rely on a paper-based process to support its mission.

In addition, DHS needs to seek out and adopt new technologies that will take into account the needs of various components and enhance its ability to secure our borders. Last year, in reviewing CBP's Strategy to Address Illicit Cross-Border Tunnels, we concluded that it had not been able to identify any existing effective tunnel detection technology. CBP is actively working to identify new solutions for tunnel detection.

We have identified a number of challenges that DHS must overcome to secure our borders and establish effective immigration policies and processes. Some of these challenges are a result of differing legacy systems and programs that need to be integrated and coordinated among the components and with stakeholders outside of the Department. Other challenges are related to inadequate strategic planning, performance measures, and data and information that cannot be relied on to make sound decisions.

Based on the Department's and the components' responses to our numerous reports, it is clear that they are diligently working to address these issues. However, it takes time to correct the underlying conditions. Competing and changing priorities and funding uncertainties also affect the Department's ability to address these issues. For these reasons, overcoming these challenges will take considerable effort. But we believe that the Department will continue to improve and achieve its goals. The Office of Inspector General will continue to work with DHS and Congress on these issues. Our goal remains the same: to develop solutions that strike a balance between protecting the integrity of mission accomplishment and fostering innovation that increases the Department's transparency, efficiency, and effectiveness.

Mr. Chairman, this concludes my prepared remarks. I welcome any questions that you or the Members may have.

Chairman CARPER. Ms. Richards, that was very helpful testimony. Thank you. Thank you all.

I want to just go back. I think Dr. Coburn mentioned the words "underlying illness," not just the need for us to address symptoms of problems, folks that are undocumented coming across our bor-

ders, but coming here documented and staying beyond their legal limits. We need to focus while we work on the symptoms, which are more visible and which we talk about a whole lot, but think about the underlying causes. And we are part of the problem.

I do not remember what it was that the Project on Government Oversight (POGO) used to say, but POGO used to say something like, "We have seen the problem, and it is us." And in no small way, we are the problem. We have a huge trade in illegal drugs in this country, and they have to come from some place, and we cannot shut them down internally. We try to, but part of the number of those come across our borders from the south, some from the north, some comes across with people getting across a river, some across deserts, others on airplanes, on ships, on boats, you name it. The drugs come north, the guns go south. And that is a big part of the problem. We have a couple of former Attorney Generals (AGs) here, and they know of what I speak.

The second thing is we have employers in this country who are knowingly hiring illegal aliens, and in some cases they try to hire Americans to do a certain kind of work. Americans do not want to do it. And one of the things we need to do is to do a better job, an ever better job of making sure that those that are knowingly hiring illegal aliens are stopped. And to the extent that we can punish them severely, identify them and punish them severely, we need to do that. We need to send a message.

The other thing that we need to do is do a better job working with intelligence, not just from the north but certainly from the south, and countries, too, Mexico and in Central America to better be able to deploy our forces along the border. So those are some of the—almost like symptoms that I will say—those are really some of the underlying causes. Some of the underlying causes. People I met with in the detention center in McAllen last week, most of them are the age of my boys, early 20s, late teens. They are just looking for a better way of life. We squeeze the balloon in northern Mexico for the drug cartels, and when we squeeze a balloon, it pops out someplace else, and it is popping out in places like El Salvador, places like Honduras, and places like Guatemala, and a lot of the people that are streaming north are coming because of the mayhem, the murder and mayhem in their countries now, and we are part of that problem. So I just think it is important to have that as a predicate for what we need to do.

My story earlier about the basketball coach who said the best players are the ones that make everybody else better? Now I want to ask you to tell us how we can make you better. All right. A couple of examples. I am an old Navy OP-3 mission commander, spent about 23 years active and reserve in the airplane. Our job was to hunt for Red October in all the oceans in the world, throughout the cold war, and we still do that, not in just OP-3s today but in OP-8s, a new airplane. And I am going to talk about the C206s that we are sending out, or other aircraft or helicopters we are sending out, without any surveillance equipment. It just defies belief. The aircraft that I flew in all those years, we would go out, if we were tracking a diesel submarine, we would have the ability to, one, detect them when they came up with our radar, detect their scopes or detect them on the surface. We had the ability to detect their

emissions if they were running their diesels. We had the ability to hear them. We had the ability to listen for their acoustic signature, to look at it visually. If they turned up their radars, came up to make sure that it was clear, then we could pick that up as well. We had any number of ways that we could find and track the Russian subs.

When we send out a C206 and we have a pilot and we do not have an observer on board and we do not have anything that is looking down, any kind of this sophisticated equipment, that is crazy. And to say that we have more than a dozen of them that are down on the southern border of Texas with no surveillance equipment, I do not get it. And we have the same problem with our helicopters. We have these drones, we have four of them that we heard about when I was down with Senator McCain in Arizona, and we were told that of the four drones we have, we do not resource them. They can fly, two of them—during the course of a week, they fly 16 hours a day, 5 days a week, and if the winds are over 15 knots, we do not fly them at all. That just does not make any sense.

Senator MCCAIN. And the bad guys are aware of the schedule.

Chairman CARPER. And they have spotters on the top of mountains, hills, in America. I mean, if they were on a mountain in Afghanistan or if they were on a mountain in Iraq or something like that, we would take them out. And for some reason, we cannot take them out in our own country. It just defies belief.

We are going to have a lot of money, thanks in no small part to this guy right here, to try to make sure that we have the resources, you have the resources to do some of the things that I have just been saying. All right. You are going to get this money. What are you going to do with it? Mr. Heyman. Along the lines of some of what I just said, what are you going to do with it?

Mr. HEYMAN. Thank you, Senator. I think you have identified a number of issues that are reason for the need for legislation. And if you look at the work that we have been doing particularly over the last 4 years, what you see in the trend lines is that we are moving in the right direction.

One of the things the bill does is it builds on the continuing deployment of proven and effective technologies that help address the drug trafficking and the illegal immigration issues. With the resources and the provisions in the bill, we will be able to do more of that, and the border will be more secure.

You mentioned the challenges in the workforce. That is absolutely true. The workforce issues present, in fact, a magnet for illegal immigrants to come here, and we need to develop a system where employees check to see if somebody is lawfully present. We have that. It is called E-Verify. It is a priority of the Administration to make workforce validation universal, and that is in the legislation. That will be helpful as well.

And so I think if you look at the very specific issues that you have addressed, you will find provisions within the bill that help us get to that direction.

On the specific issues of the Unmanned Aircraft Systems (UAS) and the—

Chairman CARPER. C206.

Mr. HEYMAN. Let me turn to my chief over here.

Chairman CARPER. Chief Fisher, go ahead. Take about 1 minute, and then I am going to yield to Dr. Coburn.

Mr. FISHER. Yes, Mr. Chairman. Specifically with the 206—and I know I am speaking for General Alles as we work hand in glove in terms of what our requirements are on the ground, and the Assistant Commissioner for the Air and Marine Operations is, in fact, taking a look at current capability that we have from the air platforms and shifting those into other platforms where, one, they would work and, two, we could operate those at a lower cost. They are currently looking, both in terms of safety and in terms of flight readiness, to be able to do that testing and to get those deployed immediately.

Chairman CARPER. All right. Dr. Coburn, thanks.

Senator COBURN. Ms. Richards, how would you characterize DHS's track record in planning and executing major sophisticated border security programs?

Ms. RICHARDS. The Department has concentrated a lot of time and effort recently on taking some significant steps to improve their acquisition and program management processes. I would have to say that, based on our work and the Government Accountability Office (GAOs) work, their track record has been admittedly lackluster to date. Again, however, I would say that they have put a lot of time and effort into putting the skeleton in place so that they can make major improvements on this process. We have not yet had an opportunity to audit an acquisition that has been through the entire process.

I would also like to say that part of the problem is the perception that the process is not as important as the end result. We have had program managers tell us things like life-cycle cost estimates just gather dust once we have completed them because the information is not used as the program is ongoing for things like budgeting or obtaining money to continue to run the program.

So because those intricate, difficult-to-complete planning documents are not viewed as valuable over the life of the program, they might be getting less attention than they should.

Senator COBURN. Well, that is a question of leadership. In terms of your findings on current border operations, what challenges do you anticipate that DHS will have in terms of the new responsibilities and the execution of new strategies with this current proposed bill?

Ms. RICHARDS. The additional requirements do put additional responsibilities on an already stressed organization. As I said in my testimony, they have the capabilities, but they need to take the steps carefully and in order. They need to make the plans of what they are going to use the equipment they are purchasing for and then purchase the right equipment and make sure that they have it properly outfitted and that they have the support in place for it.

Senator COBURN. So going back to what Senator Carper said, we have these 202s, I think you—

Chairman CARPER. 206s.

Senator COBURN. 206s. One of them has mounted technology. Why is there one with mounted technology and the others with none? And why is it, in terms of the answer we just heard, we are



looking at that when, in fact, what we already know is the answer? Is it a monetary problem? Is it an execution problem? Is it a management problem? And if they cannot do that, how are they going to handle the new requirements coming to them in a new immigration bill?

Ms. RICHARDS. Sir, we have not looked at that program specifically. In some of the other programs that we have looked at, there does sometimes seem to be—quick to follow the letter of what they have been asked to do, get some drones, so we get some drones, without really thinking about what it is going to take to be able to operate those drones in the current environments. And it is a planning issue as well as a management issue, sir.

Senator COBURN. OK. According to your office, DHS has failed to close out 47 separate recommendations of recent reports by the IG related to border security work. That comes from a table listing all your recent audits and open recommendations. Can you run through the closeout numbers for the Committee? How many recommendations have they closed? How many have they not closed on border security?

Ms. RICHARDS. Sure. Thank you. That table had a total of 16 reports with 47 open recommendations. There was a total of 51 reports that we identified that had recommendations for border security and immigration processes. There was a total of 259 recommendations in total, so you can see that a great number of the recommendations have been not only agreed to but successfully implemented. I do not have the percentage myself.

Senator COBURN. Of these 47, what are the major ones that you would put as a priority for this Committee, so we know that you think these should be done first, second, third? And you can answer that later if you would rather, if that is too difficult for right now.

Ms. RICHARDS. Sure. I cannot go through all of the 47. I would say that we are particularly concerned about the recommendation on the unmanned aerial vehicles (UAVs). We also have concerns about the recommendations on the FAST Program, the one to develop a process to assess the effect of the FAST Program on the security issues at the ports of entry.

We have other recommendations that were not strictly on border security, but that were on a wider view, such as our recommendations on interoperable communications that we also think are very important for the Department to act on as part of this process.

Senator COBURN. So if you were to create a to-do list for the agency, what would be No. 1, what would be No. 2, what would be No. 3?

Ms. RICHARDS. In the terms of this proposed legislation, completing the planning process for the UAVs would be No. 1 from our recommendations that stand already. Looking at the legislation in its entirety, there is a lot of money to be spent or planned to be spent to increase technology at the border, and I would like to see them do a good job of planning all of that before they spend the money.

Senator COBURN. OK. Director Heyman, what do you think about that in terms of especially the comments on UAVs? This country has a lot of technology that we have invested through our experi-

ences overseas in terms of UAVs. Why is it difficult to get to the point where we actually have good technology associated with them? Why is it hard to get to where we need to go? Is it financial? What is it?

Mr. HEYMAN. Thank you, Senator. There are a couple things I would comment on. One is that Border Patrol has put together for each of the sectors a technology plan, and within that technology plan, they have to consider not only what their strategic objectives are and how they accomplish them in the unique environments of each of the different sectors; they have to figure out what technologies match it, the procurement, the deployment schedules, and all of those things. And I would commend Mr. McAleenan's discussion on that because this is exactly what the IG is interested in. They want to make sure that we are planning, that it is unique to the sector, that we have oversight on that. And in the last year, I think there has been significant progress on that front.

In terms of the UAVs in particular, we have actually stood up a UAV working group within the Department. It includes not just the operators but also the policy folks, the privacy folks, the civil rights and civil liberties. We are making sure that the integration of the technology meets our interests both from a policy and a privacy perspective.

Senator COBURN. All right. My time has expired, Senator Carper. Chairman CARPER. Senator Johnson please proceed. Thank you.

#### OPENING STATEMENT OF SENATOR JOHNSON

Senator JOHNSON. Thank you, Mr. Chairman.

Secretary Heyman, you mentioned our exit policy. Before I get into other border security issues, I would like to just talk a little bit about the Boston city bomber. As best I can understand, we have a system that should be tracking that and should be pinging, and we have the Treasury Enforcement Communication (TEC) system, where suspect No. 1, I guess, was pinged and that information came in to an individual in the Department of Homeland Security. Can you just describe that process to me?

Mr. HEYMAN. Sure. What you have is an IT system that in advance of a person's departure or arrival to or from the United States, usually somewhere around 72 hours in advance of that, sends a message called the Hot List, if there is an individual to take a look at or take a second look at. This is all done by CBP and the customs officials. In that case, if there is an active case or something that deserves an additional look from the Federal Bureau of Investigations (FBI), for example, it is sent to the specific Joint Terrorism Task Force that is overseeing that, and that is what happened.

Senator JOHNSON. OK. Now, in this specific case, Tamerlan Tsarnaev was actually pinged, and somebody in the Department of Homeland Security did receive that information, correct? An individual?

Mr. HEYMAN. Correct.

Senator JOHNSON. Did that information get disseminated anywhere, or did that just dead-end right there?

Mr. HEYMAN. I do not have the specifics on that, but that individual serves in the FBI Joint Terrorism Task Force so the process

is basically that they all share that information. When you are serving on it, you are sitting next to each other, and you are all working together.

Senator JOHNSON. So has the Department really evaluated what happened there? Do you have an answer on that? I mean, can you provide that to our office?

Mr. HEYMAN. There is a briefing for you and your staff on Friday, a classified briefing. They will go into all those details, yes.

Senator JOHNSON. OK. Thank you.

Let me just talk in general, the history of border security. I think we have really made a pretty long attempt here, since the mid-70s, mid-80s, to try and secure the border, apparently with some progress. But we continue to say, well, we need more resources. I think in one of our first hearings with Secretary Napolitano, I asked her, "Well, how much would it cost to secure the border?" And her response was, "We have enough resources."

I think this bill is going to be spending another \$4.5 billion. What do we spend per year on border security right now, approximately? Does anybody know?

Mr. MCALEENAN. I think if you combine the CBP and ICE budgets—that is a number I have seen before—it is upwards of \$15 billion.

Senator JOHNSON. OK. Do you think another \$4.5 billion is going to make any further impact on that? I mean, are we just going to continue to throw resources at the problem?

Mr. MCALEENAN. I do not think so. I think the framework laid out in the immigration reform bill targets some of the key areas, some additional capabilities with technology for surveillance between ports of entry and the southwest border, additional officers at ports of entry, which is an area where we have seen tremendous growth in trade and travel in all environments that we need to keep up with to make sure we can secure and facilitate it appropriately; and addressing legal immigration pathways as well as employers in the interior. I think those are investments that will advance border security and move us forward.

Senator JOHNSON. I know the bill lays out a process where the Department, I guess, lays out another plan for securing the border. Do we not have that plan? Do we have to do this again? I mean, how many times have we developed a plan for trying to secure our border?

Mr. MCALEENAN. I do think we have a good foundation for that plan, as Secretary Napolitano has stated. I think in the context of the bill, providing a specific road map that can be measured against and evaluated seems like an important aspect.

Senator JOHNSON. Are we just doing more of the same, Ms. Richards? I mean, you talked about planning. We hear this all the time. I have been here now a little more than 2 years, and I hear the same bureaucratic answers over and over again: "Well, we have to plan, we have to execute, and, of course, we always need more resources." But it does not seem like we have made all that much—we certainly have not secured the border. Maybe we are making progress. But we always hear we are making progress. Are we really?

Ms. RICHARDS. Well, I would like to differentiate between the plan to secure the border that you are talking about and the planning that I was talking about in my testimony, which is much more detailed, having to do with the equipment and the personnel and getting to the nitty-gritty, where the rubber meets the road resources to the right spot on the border when they need it. The planning that I am talking about is if you are going to buy a certain kind of aircraft, what does it need to be on the aircraft and how many do we need and how many pilots do we need and how many mechanics do we need? That is the kind of detailed planning that I would like to see the Department do before they spend the money that is identified in this legislation to implement the broader plan of securing the border through greater surveillance and technology.

Senator JOHNSON. So the Department spends approximately \$50 billion per year. We are not doing that planning now with the \$50 billion we are already spending?

Ms. RICHARDS. I, of course, can only speak to the programs that we have audited, and in those programs we find that they are not doing a good job of doing those detailed plans before they spend the money.

Senator JOHNSON. I have sat through hearings now for a couple years, and we continue to hear about spotters on mountains. Why don't we take those people out? Why do we continue to have spotters for the drug lords in America sitting on top of mountains providing that information? What prevents us from taking them out?

Mr. FISHER. Senator, I will take that question. First of all, the environments in which we operate within our mission space is a law enforcement environment, very much different in terms of rules of engagement and what we can or cannot do in the comparative that the Chairman talked about in places like Afghanistan and Iraq. The rules of engagement, what we call our use of force, applies to individuals on the street or whether they are up on mountaintops. So it makes it a little bit more difficult in terms of what we actually do once we have identified them to actually get to them. We have plans in place. We, in fact, have removed many of those spotters. We are continuing to degrade the capability of those organizations that utilize spotters up on those mountains. But it continues to be a significant threat and a continued persistent on our part to be able to mitigate that.

Senator JOHNSON. Just a quick estimate, how many spotters are there? How many have you taken out?

Mr. FISHER. I do not have that number off the top of my head.

Senator JOHNSON. How many have you taken out? I mean, you say you have taken some out.

Mr. FISHER. A dozen, sir.

Senator JOHNSON. OK. Thanks, Mr. Chairman.

Chairman CARPER. Thank you.

Next to question, in order of arrival, is Senator Landrieu, who may be back; Senator Baldwin will be next, followed by Senator Heitkamp, Senator McCain, and Senator Paul. Senator Baldwin.

### OPENING STATEMENT OF SENATOR BALDWIN

Senator BALDWIN. Thank you, Mr. Chairman. And I want to start by thanking the men and women who serve in our Department of Homeland Security, some risking their lives at times on very dangerous terrain to keep our borders secure.

I am encouraged to see the bipartisan product of S. 744. There are some encouraging provisions of the bill. It addresses border security, family reunification, employment verification, high-skilled workers, farm and guest workers, and pathways to legal citizenship for undocumented individuals. If done right, immigration reform will create jobs, strengthen businesses, bolster security at our borders, and keep more Wisconsin families together. Our responsibility is now to ensure that we keep America both safe and as promising as it ever has been.

My question is about the trigger mechanism in this bill, and I would like to hear from any of you who wish to comment. As I understand it, the first sections of S. 744 require a plan to establish "effective control" of the border, and until it is operationalized, other major parts of this bill will never come into effect.

To be deemed as having "effective control," the Department of Homeland Security must have to establish persistent surveillance and pull together a plan with an effectiveness rate of 90 percent or higher and 100 percent monitoring.

Can you please flesh out for me as much as you are able how likely it is that we will be able to operationalize this plan given the resources allocated and the massive scope of this job? And are the timelines contemplated in the bill long enough to formalize a plan of this magnitude?

Mr. McALEENAN. I will start and then ask my colleague Chief Fisher to engage as well.

We think the bill is a significant advance to border security across the board with the investments proposed, and we do believe that we can operationally execute the bill with the standards incorporated in it.

I think Chief Fisher can elaborate on persistent surveillance and the 90 percent effectiveness, but we do intend to accomplish those goals.

Mr. FISHER. Thank you, Senator. First, let me take your first part on the persistent surveillance, and I will kind of walk through, and if I miss any, please let me know.

On the persistent surveillance, it is very similar to how we operationalize today. So I think of it in two terms. One is in areas where we need eyes on all the time, and so there are sections along the border where our field commanders and agents have assessed that there is always going to be a vulnerability, think in terms of urban areas or even in the fringes, where we know that if a person is not there or if a camera is not there, people are going to exploit those areas. So we have identified those areas over time that we do, in fact, need in a true sense persistent surveillance in either technology or Border Patrol deployments.

In other areas, a vast majority of those other areas where we know based on intelligence, where we know based on agents patrolling those areas, that the activity is so low, persistent surveillance for us takes a form of situational awareness, and the way that we

measure that right now and capture that is a whole host of things. I will just give you a couple of examples.

One would be Border Patrol agents doing periodic tracking on the ground on those areas, Border Patrol agents that are very adept and experts over time at trying to identify who is coming into the country. We have tens of thousands of untended ground sensors that tell us basically what activity is happening in that area, and we aggregate that information and do analysis over time to see if, in fact, the shifts in traffic are moving in the different areas. And there are other things both in terms of the unattended—not the unattended ground sensors, but the unmanned aerial systems, utilizing synthetic aperture radar to do what we call “change detection,” in other areas where we have just recently, as of the beginning of March, started utilizing—and, again, we are really in our infancy of understanding this from others within the Government—geospatial intelligence. So we are looking at to be able to cover in a persistent surveillance either areas where we have high degree in eyes-on deployments of personnel and technology, which will always need to be there 24/7, and what other areas where we do and utilize technology in the air to be able to identify those areas.

The second piece, as it relates to the effectiveness rate, the way that we calculate effectiveness is quite simply the following: it is the number of apprehensions plus the number of turnbacks. So these are individuals, the turnbacks are individuals that have made an entry and have turned around and gone back to the country from where they came. You take the apprehensions plus the turnbacks, and you divide that by the overarching entries, the total amount of entries that actually come in. That is our effectiveness rate.

So three things generally happen when somebody enters in between the ports of entry, and two are good. We apprehend them or they turn around and go back. The third one, which is not so good, which we always try to minimize, is the amount of got-aways, people that have made the entry, we have detected them either through technology or through agent observation, and we try to continue to work that traffic, and in some cases they either load out or get away from us, and they are not either apprehended or turned back. That counts as a got-away. And so our ability is to make sure that effectiveness is higher in all areas, and we believe that at or above 90 percent is an area within those corridors that we should set the goal at 90 percent.

The last point on the timeliness, is the timeliness in terms of the implementation sufficient? And I believe it is.

Senator BALDWIN. Thank you.

Chairman CARPER. Thanks, Senator Baldwin.

Senator Heitkamp is next when she returns. Senator McCain.

#### **OPENING STATEMENT OF SENATOR MCCAIN**

Senator MCCAIN. Thank you, Mr. Chairman. I especially want to thank you and the Ranking Member for taking the time out of your schedule to come to the border. I invite my colleagues on the Committee to take the time to visit the Arizona border or the Texas border, whatever border of our southern border they choose to. I think it is the best way to make anyone aware of the immensity

of the problem and the difficulty and the challenges that, frankly, our brave men and women who are serving on the border go through. And I want to thank both of you, and I invite my colleagues as well.

Mr. Fisher, apprehensions are up this year for the first time in a long time. I think you testified before 13 percent?

Mr. FISHER. Yes, Senator, that is correct.

Senator MCCAIN. Which means that the economy has something to do with people's desire to come across the border. Is that a valid assumption?

Mr. FISHER. In part it is, sir, yes.

Senator MCCAIN. And part of it is the word has gotten south that sequestration has reduced our ability to surveil and there may be comprehensive immigration reform. Is that true?

Mr. FISHER. Yes, sir. There are many motives for individuals still coming across the border.

Senator MCCAIN. But for the first time in years, it is up.

Mr. FISHER. Yes, sir, approximately 13 percent.

Senator MCCAIN. And we should be very cognizant of that.

I do not mean to be parochial, but I think you would agree, especially for drug smuggling and other areas, especially the Tucson Sector is the most trafficked and most difficult and least secure part of the entire border. Would you agree with that, Mr. Fisher?

Mr. FISHER. Yes, sir; South Texas being a close second.

Senator MCCAIN. And in our bill, by the way, for my colleagues, there is a provision to prosecute—criminal prosecution for anyone who transmits information—i.e., these people on the mountain-tops—to facilitate the drug traffickers.

I want to talk to you for a minute about technology, Mr. Fisher. When you are down on the border and it is 120 degrees and you are sitting in a vehicle next to a fence, your efficiency drops rather significantly in a relatively short period of time, which is why so many of us emphasized the need for technology and sensors, and, of course, the Stuxnet, I guess it was called—no, the Boeing fiasco is such a disgrace, the loss of \$787 million in an effort to provide sensors across the border. And I hope we learned lessons from that, I say.

And there is a new radar called the vehicle dismount and exploitation radar (VADER) that was developed in Iraq to detect people who plant the improvised explosive devices (IEDs). It even tracks people back. How are you doing on that radar?

Mr. FISHER. Senator, we are still learning every day. As you well know—and you probably had the briefing down there, so I do not want to be redundant—the VADER system was relatively new to our fleet in terms of technology and giving us the capability that we have not seen before along the border, at least in my 26 years. And we are still learning the best way to implement that system.

Senator MCCAIN. Well, we have recommended—and I think it is language in the bill—that you consult with the army people who went through the whole evolution of this radar and how to use it most effectively. And that is not to kill people, but surveillance and detection—it is a marvelous advance in technology, which brings me to the UAVs. We have problems with the UAVs not only as far as numbers are concerned, but also interference with airspace that

is being used by the military. How are we doing on that? Maybe I should ask Mr. McAleenan.

Mr. MCALEENAN. I will check on the interface with the Department of Defense (DOD). I mean, we——

Senator MCCAIN. But you know it is a problem. The airspace being used by both the Border Patrol and the military has caused significant difficulties in getting clearance for the UAVs. Is that not true?

Mr. MCALEENAN. Well, deploying new unmanned technology domestically has had some challenges. We work closely with the Federal Aviation Administration (FAA) and DOD to——

Senator MCCAIN. But this is about specifically the ranges that are being used by the military aircraft, which complicates it a lot more. I hope you will report to us on that.

Ms. RICHARDS, you say other challenges related to inadequate strategic planning, a dearth of performance measures. Would you give us, the Committee, perhaps in writing, what ideas and thoughts that you have about how we can improve the performance measures on the border? There is a lot of concern about that.

Ms. RICHARDS. I would be happy to, sir.

Senator MCCAIN. Thank you.

On the issue also, Mr. McAleenan, there is a problem with the Native Americans because of tribal sovereignty. Would you agree, Mr. Fisher, on that issue, especially the Indian reservation on the border?

Mr. FISHER. Senator, it does, like many communities, take an ongoing dialogue to be able to make sure that when we are operating in those environments, along with those communities, that there is an ongoing collaboration, integration, and certainly communication, and we continue to——

Senator MCCAIN. But up until now it has been a real problem.

Mr. FISHER. It has been challenging in terms of being able to deploy technology, that is for certain, yes, sir.

Senator MCCAIN. Mr. Heyman, \$4.5 billion is a lot of money, and there is also a provision in the bill that if after 5 years we do not have this effective control, another \$2 billion will be spent. How confident are you that after the expenditure of the funds that are authorized and appropriated in this legislation, we will be able to take the measures necessary to assure the American people that never again will there be a third wave—never will there be a third wave?

Mr. HEYMAN. Senator, I think that the legislation provides a number of different tools and devices as well as the appropriations. The reason it is called “comprehensive” is because it addresses a number of areas having to do with immigration reform. As a consequence of that, I think because of the worksite enforcement, because of the technology deployment, because of the streamlining of immigration laws, if you put all of that together, our ability to have better control of the borders I think will also improve. And so we are confident that it is the right formula.

Senator MCCAIN. Well, in conclusion, Mr. Heyman, Senator Johnson pointed out that there are some obvious areas, particularly on student visas and humanitarian visas, that need to be looked at. I think it would be appropriate, I would say to Senator



Johnson, for this to be part of the amending process if—it is either existing laws are not being enforced correctly or we need new legislation and regulations to prevent the kind of occurrence where people can leave the country and only one agency detects it and then he comes back and nobody is alerted. Hearings are going to be held on this, but I believe it would be appropriate, Mr. Chairman, as we go through the comprehensive immigration bill, that we look at the errors that were made in the Boston situation and, most importantly, the areas that may require—and I emphasize “may”—additional legislation to prevent that reoccurrence.

Thank you, Mr. Chairman.

Chairman CARPER. Sure, and I thank you for that suggestion.

Senator Heitkamp has rejoined us, and you are recognized. And next I think would be Senator Paul.

#### **OPENING STATEMENT OF SENATOR HEITKAMP**

Senator HEITKAMP. Thank you so much, Mr. Chairman, and thank you all for the work that you do and thank your staffs for the work that they do under very difficult situations, and on tough terrain, as Senator Baldwin said.

We will not get comprehensive immigration reform unless the public has confidence in what you do—unless the public honestly believes that this will be a sea change; that they will, in fact, see competent technology deployed, competent personnel deployed; and that they will see an absolute commitment to making sure that this happens, that this is not just something that we do because it is going to make us feel good that we do it. And we know that typically on borders there are two types of people who are crossing: those who come to work, those who come to pursue a better life, maybe join relatives; and then there is the criminal element. And we cannot downplay the criminal element because we see it certainly on the southern border, but we also have a great deal of concern on the northern border.

And so I want to, just for a minute, in the small amount of time that I have, focus a little bit on the northern border. Because one of my concerns in looking at this, even though I am anxious to see your plans and anxious to make sure that this works, I am concerned about redeploying assets that we currently have on the northern border to the southern border, and what that means in terms of the impacts on protection in the northern border. And we know that at least one, maybe two of the September 11, 2001 bombers did not come in through the southern border. They came in through the northern border.

And so explain to me, I think, Chief Fisher, you are the person that I understand the best because I am a former AG in North Dakota and worked very closely with Border Patrol. I always had a great relationship with them and felt like the collaboration that we had really kept people in my State much safer.

Explain to me what the plans are in terms of maintaining security on the northern border and deployment of resources so that we do not lose focus of what is happening to the north.

Mr. FISHER. Thank you for the question, Senator, and first and foremost, to your earlier point, I am committed to border security and protecting this country, so whatever the bill ends up being and

passed, we will implement that and we will make sure that our commitment to protect this country is not changed, regardless of what happens. So I wanted to make sure that I made that point, and I am speaking on behalf of the 21,000 men and women who do that each and every day. And thank you for that compliment, by the way.

To your second point—and it is really interesting, and I am glad you brought up the northern border, because so many people think that the border is only the southern border. And earlier, before my first deployment to the northern border, which was in Detroit many years ago, it was different challenges, as you well know.

It is a constant evaluation, whether you are looking at the southern border or the northern border. Threats are always dynamic. They are going to constantly change, and our ability not just every year to come up with a new plan or an implementation, we are constantly assessing all threats each and every day, and we are lifting and shifting resources along the northern border and the southern border against those threats. The whole idea of our strategy is to put our greatest capability against those greatest risks.

Specifically on the northern border, over the last few years—and you will recall, prior to 2000, we had approximately 300 Border Patrol agents to cover about 4,000 miles of border. That is a very daunting task if you are the only Border Patrol agent in many locations and you have to patrol hundreds of miles. And we leverage that by continuing to work with State and locals. We do the integrated border enforcement teams with the Royal Canadian Mounted Police (RCMP) and State and locals. We use that as a force multiplier and in a lot of locations, we do not need thousands of Border Patrol agents. We leverage the information. We do integrated planning and execution, and then we increase our ability to do two things: flexibility, which is the key in any implementation on this bill; and the second piece is for us to be able to rapidly respond to those emerging threats in advance, and our ability to do that on the northern border is in some cases more critical than it is on the southern border.

Senator HEITKAMP. Mr. Fisher not to ignore the rest of you, but I think I am most familiar with the work that you do, and obviously, in North Dakota, we consistently have intel meetings where we share—the Royal Canadian Mounted Police come down, and we spend a lot of time talking about what do you know, what is coming across, where do you think the gaps are. And I think you raised a very important part, a very important issue, which is: How do we collaborate? How do we expand our opportunities by including local, State, and maybe other governments' police forces, other governments' efforts in a collaboration so that we can leverage all of these resources?

And so I hope as you move forward with these plans that we do not just look at it from the standpoint of high-tech technology, because we know that there are two ways we can do intel: One is from the sky and the other is just listening on the ground and what is moving.

And so I am very interested in finding out what the plans are related to collaboration with local and State officials and law enforcement.

Mr. FISHER. Yes, Senator, and I was recently in Grand Forks and got a briefing, went out with the agents. I am not the expert there, but I would love to work and give you and your staff a briefing, a little bit more detailed briefing about our deployment strategies and methodologies specifically in that area.

Senator HEITKAMP. Yes, and my point in all of this, as we look at immigration reform, I think it is always the look is to the south.

Mr. FISHER. Understood.

Senator HEITKAMP. And I want to make sure that, in that very important work looking to the south, we do not forget to pay attention to what is happening at the northern border.

Mr. MCALEENAN. And if I might add very briefly, Senator, on the northern border the CBP officers that are specified in this bill as well as in the Administration's fiscal year 2014 budget, a number of those would go to ports of entry on the northern border. They are deployed based on our workload staffing model where the greatest need is, both in terms of traffic and threat.

Mr. HEYMAN. And I might also add, the opportunity here to talk about our partnership with Canada, you mentioned State and local, but we have an extraordinary partnership with Canada that the President put forward in his Beyond the Border Initiative that has allowed for a sea change in how we work with them. There is a 34-point plan that we are working through—increased infrastructure investments, joint operations, shared information that is allowing us to be a force multiplier, in effect, for what Canada is doing.

Senator HEITKAMP. And just very quickly, I am familiar with Beyond the Border. I am familiar with the attempt to not logjam commerce in the interest of law enforcement, and all that needs to be balanced. But, again, we are very concerned in North Dakota and all across the northern border that we not lose some focus that we have had on the northern border.

Mr. RAGSDALE. And if I could just add also, the Border Enforcement Security Task Forces, our operational platform that we work with our State and local partners, is a critical piece of the strategic, not only on the southern border but also on the northern border.

Senator HEITKAMP. Thank you so much.

Chairman CARPER. We appreciate your getting our focus back up to the northern border, Senator Heitkamp.

If you look at the membership of this Committee, it includes a number of Senators whose States do border Canada. It includes Senator Levin from Michigan, Senator Tester from Montana, Senator Baldwin from Wisconsin, Senator Johnson from Wisconsin, of course, Senator Heitkamp, and also Kelly Ayotte from New Hampshire. There is no shortage of people who are going to be interested in making sure we do not forget about that northern border.

Senator Paul, good to see you. Please proceed.

Senator PAUL. Mr. Chairman, thank you for bringing this distinguished panel here. I for one am for immigration reform. I think we should embrace immigrants as assets, people who want to come and find the American Dream. If you want to work and you come to our country, I think we can find a place for you.

That being said, I am worried that the bill before us will not pass. It may pass the Senate, it may not pass the House. I want to be constructive in making the bill strong enough that conserv-

atives, myself included, conservative Republicans in the House will vote for this, because I think immigration reform is something we should do.

In this bill, I am worried, though—and this is similar to what Senator Johnson said—that it says, well, you have to have a plan to build a fence, but you do not have to build a fence. And if you do not have a plan to build a fence, then you get a commission. I do not know what happens if the commission does not do anything. That is the story of Washington around here.

To me, it is a little bit like Obamacare, and I hate to bring that up, but 1,800 references to the Secretary shall at a later date decide things, we do not write bills around here. We should write the bill. We should write the plan. We should do these things to secure the border. Whether it be fence, entry-exit, we should write it, not delegate it, because what is going to happen in 5 years, if they do not do their job—it may not even be them. It may be somebody else who does not do their job in 5 years, and the border is not secure, we will be blamed for the next 10 million people who come here illegally.

The work visa program has to work. We have to make it work. That is where the illegal immigration is coming from because people are not getting their work visas.

With national security, I sent a letter earlier this week, and I do not know if you have had a chance to look at it, Senator Carper, but in that letter, I asked that we mark this up. National security is a big part of immigration, and it is a separate part, and we should go through detail after detail, but then vote on amendments in our Committee to add to the immigration bill.

And some say, “Oh, you are doing this just to kill the bill or slow it down.” No. I want the bill to be better so we can pass it. I think the stronger this bill is, the better chance we have of passing it. My goal is to pass the bill.

I am concerned about two things in particular: refugees and student visas. Student visas, as was mentioned, had to do with some of the September 11, 2001 hijackers. Right after September 11, 2001, we passed a program called National Security Entry-Exit Registration (NSEERS) program, and we had it for about 10 years. It has been defunded now and no longer exists. We looked at 25 countries more carefully, and we were absolute about it, and thousands of people were sent home who were not in school, who were not doing the right thing, who were not obeying the rules we had set up.

I am disturbed really that the FBI investigated this young man, this Tsarnaev boy, and then they did not know he was leaving the country. He was on a Central Intelligence Agency (CIA) list. We said all the billions and trillions we spent on homeland security was so the FBI would talk to the CIA. And I am concerned that—I do not know if they were talking, but for some reason, it does not appear as if we knew he was leaving the country. Once he left to Chechnya, he needed another interview. And I do not fault them for interviewing him and maybe not catching him the first time, but how many people did Russia refer to us? Was it 50,000 people that they wanted us to look at or was it 10? If it was 10, we should have spent a lot of time with those 10, and we should have been

monitoring them just because Russia thought they were a problem on them leaving. I would do it with a judge's warrant because I believe in due process, but I still would do it.

So I would have hearings, and my purpose of this is to specifically ask Senator Carper and Senator Coburn to consider having hearings where we actually physically take control of a part of the bill and do national security hearings, have amendments, not to defeat the bill but to make it stronger, to look at how many refugees we can process. And if we are bringing in 200,000 refugees, maybe we need to bring in 100,000 or 50,000. Maybe the number has to be smaller so we can manage it.

In my town of Bowling Green, two refugees came in, and their fingerprints were on an IED. They immediately started buying Stinger missiles. Fortunately, it was from the FBI and we caught them, but they got into the country even though their fingerprints were on a bomb.

I think too many people are coming in too quickly without enough review and that we need to target the review to the countries that seem to have hotbeds of people who hate us.

But I would like to see an orderly fashion where we do not just say, oh, come up with a plan, if you do not have a plan, we get a commission. That is where I see it now. If it is not any stronger than this, I do not see it getting through the House.

So I would only beseech the Chairman to consider whether or not we could actually have here—and I would welcome a comment if you would like to make a comment with that regard.

Chairman CARPER. Thanks very much for your question and really for, I think, the good intent that you bring to these issues.

First of all, on the issue of sequential referral, I have asked our staffs about this. Senator Coburn said earlier today that he would like to see a sequential referral of the bill to our Committee. And my staff advises me today that, in order for us to do that, we have to ask unanimous consent—the parliamentarian has made the decision that the bill be referred to another Committee. We have to ask for unanimous consent in order for it to be referred to us sequentially. We are going to explore that. We will explore that with the Democratic and Republican leadership.

As you know, yesterday we tried to get unanimous consent just to go to conference and to take the House-passed budget resolution and the Senate-passed budget resolution, go to conference and try to figure out a compromise to get our deficit headed in the right direction. We could not get that done. One person was able to object and to kill that. So we need to find out for sure what the situation is there.

On the second issue, there are—let me just say with respect to the tragedy that occurred in Boston, as much as we mourn the death of three people and the mayhem that has touched the lives of 250 other people who have been injured, a lot of good was done by the FBI, by the CIA, by Homeland Security, by the State and local police. We have asked a bunch of questions, Senator Coburn and I asked page after page after page of questions of the Secretary of the Department of Homeland Security that relate specifically to that. We are going to get those responses. We are going to get them in a timely way. And when we do, at an appropriate time, working

together, we will figure out when to hold hearings, with your input and others, in some cases maybe classified hearings, in other cases unclassified hearings. But the idea there is to, as I said earlier, figure out what we can do to help, whether it is the situation on the northern border, the southern border, situations like in Kentucky, Boston, what can we do to make more effective, better leverage the assets, human and other assets, that we have. But I like your spirit, and we want to work with you and with our other colleagues to figure out how we can play the constructive role that I know we all want to play.

We are going to have a vote here at noon, and I talked with Dr. Coburn, and I think I am going to stay here and keep things rolling. If we start the vote, he is going to go vote, come back, and then I will vote and return. If anyone wants to ask a second round of questions, we will have that opportunity, and I would invite you to do that.

Let me just start my second round by acknowledging—we have already talked about this—the job that is done along our southern borders and our northern borders to try to slow, stop the movement of people illegally, the movement of drugs and contraband illegally, it is not easy. I was down there in pretty good weather, but as Senator McCain says, sometimes the temperature is 120 degrees. Sometimes it rains. Sometimes it is cold, especially up on the northern border. Sometimes people are taking shots at you. Sometimes people are throwing rocks at you. This is not an easy job for folks.

And I will say this: The people that I have met, both on the northern border that are doing this work for us and the people on the southern border, for the most part they are enthusiastic, they are proud of the work they do. They are intent on doing it better. They want us to figure out how to make it more effective, and that is a big part of what we are doing. So we applaud their service.

I want to come back, if I can, to the issue of technology deployed along our borders to help, to serve as a force multiplier. And we have talked about the VADER system. We have four drones. One of them has a VADER system installed. It is a borrowed system—a borrowed system from a private company. We have a dozen or so—more than a dozen C206 single-engine aircraft. I believe one of them is outfitted for surveillance, to do sophisticated surveillance work. That is like my OP-3 airplane going out there without the ability to acoustically detect submarines, visually submarines—well, maybe visually we could—without radar, without intercepts. I mean, it is like going out with binoculars looking for a submarine. And that is what we are doing with our C206s, and too often it is what we are doing with the drones that do not have the VADER system on them.

We have deployed in places, I think in Afghanistan, lighter-than-air, I will call them “dirigibles,” lighter-than-air assets, blimps. Some of them can carry sophisticated surveillance equipment; maybe some cannot. And we have the ability to deploy land-based systems, whether they happen to be handheld radars or handheld surveillance or truck-mounted where you can elevate them or just ground-mount them. I think there is something called the Tethered Aerostat Radar (TAR) system which we have some of the ground-

mounted, elevated radars and observation posts. Any one of these by itself is not going to work everywhere, and part of what we need to do is figure out where the highest risk is and go after those first.

And, second, of the kind of technology and the assets that are available to complement our ground forces, figuring out, one, where is the greatest risk and which particular technology is most appropriate in a given area of our border. It ain't rocket science. And in the past we have had the real problem of not having the resources. We are going to have the resources. We have to fill this sense of urgency and providing those resources and making sure that you have thought through, with our input and certainly with the input of our appropriators, led by Senator Landrieu, to make sure—and I think—it is Dan Coats? Senator Coats, who are the Chair and Ranking Member of the Appropriations Subcommittee.

The other thing I am going to say, and then I am going to ask a question. Somehow we have to do a better job of conveying not just to the folks in Mexico that want to come to our country to work, but the people in El Salvador, Honduras, Guatemala, and other countries where their lives are not very pleasant right now, and it is because of squeezing that bubble, squeezing that balloon, we are seeing a lot of the work, the cartels heading south and making lives in those countries miserable. And they are looking for a way to get out, and Mexicans do not want them to stay in their country, so they just come through Mexico, come on across our borders in places that are tough to detect them.

Somehow we have to do a better job conveying to people in those countries where people are still coming out, the other-than-Mexicans, that it is a tough journey, there is a good chance you will get caught. If we catch you, the experience you are going to have in this country is not pleasant. And if you come back again, it is going to be even less pleasant if we catch you. We have to make sure that our employers know that if you are trying to hire illegal aliens, you are doing it knowingly, we are going to find you out and we are going to punish you. We are going to find you and imprison you if it is a repeat kind of occurrence.

And the other thing we need to do, we need to do a better job of conveying to the folks that live in these countries where they are coming north the risks that they face—the risk that they will not get through, the risk that if they do, it will not be a pleasant experience, the risk that they will be shot, murdered, drowned, raped. We have to do a much better job of conveying what it is really like. It is kind of like a “Scared Straight” approach for those countries, and we have to be smart about the way that we do it.

Chief Fisher, right now what is our effectiveness rate in high-risk border sectors as defined by the bill that Senator McCain and others have worked on? Let me just ask you that. What is our effectiveness rate in the high-risk border sectors as defined by the bill?

Mr. FISHER. It is approximately between 80 and 85 percent, sir.

Chairman CARPER. All right. And just to make this simple for people to understand, let us say we are at the border, we are looking for people who try to get through, and what we really need to make this work, I think, is the ability to—it is almost like a quarterback coming out of the huddle. You can look at the defense, and

you see the whole field. But it is the ability to see the whole field, and that is folks coming to our border, and to be able to almost count them, almost have the ability to count them. And we will say on a good day you can see 100 people coming. And we need to know not only how many are coming to cross our borders; we need to know how many are going to be turned back, and that is not easy to do, but it is not impossible. We need to know how many we have apprehended. And then the rest are those that are got-aways. But we need to measure better three things: one, how many people are trying to get across the border; two, how many people are turned back; and the rest sort of takes care of itself.

And part of our challenge is to figure out how to measure those that are trying to get across and those that turn back. The rest we can figure out. But I think some of the technology we are talking about can do that.

Let me followup on my question, Chief, by asking this: How close do you think we are to achieving persistent surveillance in some of those sectors?

Mr. FISHER. Along the southern border, taking into consideration both the eyes-on 24/7 and some of those areas in the urban areas, and with situational awareness, it is going to take probably at least another year or two as we continue to mature both in terms of systems that we have, optimizing that capability, and continuing to see and leverage geospatial intelligence to try to understand how that may help us in the situational awareness area.

And if I could, Mr. Chairman, I want to qualify my earlier statement in terms of—I was trying to reconcile the way you asked the question in terms of the way the bill is identified in those high-risk areas. There is one area in South Texas specifically that is not within that range that I stated previously, that 80–85 percent—

Chairman CARPER. Which one?

Mr. FISHER. South Texas, which basically takes into consideration the area, I believe, that you recently saw down in Rio Grande Valley.

Chairman CARPER. Rio Grande, yes.

Mr. FISHER. That one is actually below 80. It is about 78, 79 percent. So I do not want to be misleading in my earlier statement.

Chairman CARPER. All right. Thanks.

Dr. Coburn, I am going to run and vote. I will be back.

Senator COBURN. [Presiding.] Let me go back to you, Chief, for a minute. How do you come up with the denominator? You told us how you calculate an effectiveness rate—where is the character quality of the denominator?

Mr. FISHER. The denominator—

Senator COBURN. You do not have that, actually, do you? You do not know every attempted crossing into this country.

Mr. FISHER. I do not.

Senator COBURN. That is right. So, therefore, the denominator is meaningless if you do not know the numbers.

Mr. FISHER. The entries, which is the denominator, sir, is basically the apprehensions plus the turnbacks plus the got-aways. In areas where we have dense deployments, both in terms of personnel and technology, we have a better accounting of what the flow is at any given time.



Senator COBURN. Well, but wait a minute. That is the apprehensions, the turnbacks, and the got-aways. That has nothing to do with the ones you do not know.

Mr. FISHER. Yes, sir, and that is where the geospatial intelligence, utilizing our organic resources, helps us understand.

Senator COBURN. I know, but here is the point I want to make—

Mr. FISHER. Yes, sir.

Senator COBURN. If that legislation is going to pass, that denominator is going to have to be determined in finite terms and that is where the geospatial is going to help you, right?

Mr. FISHER. It will, Senator. It is my belief that it will, yes.

Senator COBURN. And do you not agree, if you have a varying denominator, then you are not going to have a constant look at what your percentage is going to be? So you have to know what that denominator is. For 90 percent to mean something, that means the denominator has to mean something, and it has to be real. And it cannot just be what you know. It has to include what you do not know today in terms of crossings. Correct?

Mr. FISHER. Senator, I do understand your point. First of all, the denominator always fluctuates. It fluctuates on a daily basis, and it fluctuates depending upon the section of the border.

Senator COBURN. But you are missing my whole point. You do not really know the denominator.

Mr. FISHER. Across 4,000 miles to the north and 2,000 miles—

Senator COBURN. No, you do not know.

Mr. FISHER. I do not know.

Senator COBURN. OK.

Mr. FISHER. I stated that.

Senator COBURN. So my point is, if the American public listens to this, we are going to determine the border is secure on a number that you do not know. You are going to give us a number, a percent, but the bottom number is—you are not going to know it. And that is a hole in terms of the requirements of this bill, and that is going to have to be addressed before this bill is going to be able to pass.

Mr. HEYMAN. Senator, if I may, one of the things that the bill I think intends to do is to put great investments in some of the technologies the chief was talking about. We do have some fidelity over that number right now. The technology development and deployment that will be envisioned by the bill will build us greater capability for surveillance and detection for the—

Senator COBURN. I understand—

Mr. HEYMAN [continuing]. Greater fidelity. You never have 100 percent fidelity—

Senator COBURN [continuing]. But, remember, the emotion on immigration has nothing to do with race. It has to do with the rule of law. And first of all, where did we come up with 90 percent says your border is controlled? Where did that come from? Why do we think that 90 percent says the border is controlled if 10 percent is not?

Mr. HEYMAN. Senator, one of the things that I know Secretary Napolitano has said it is important not to just focus on one number. As a general practice, we have looked at the border from a

number of different factors, whether it is apprehension, crime rates, or otherwise. And I think in some sense it is like the economy. We do not use just one number to measure how good our economy is. You do not just look at GDP. You look at consumer confidence, consumer spending. You look at jobs rates and things like that.

I think as we are looking at the borders, as a general principle we should also be looking at——

Senator COBURN. I know, but that is not what the American people are expecting. We are considering creating a path to citizenship in this bill, and it is based on the fact that the border is going to be controlled. That is the thing that is going to certify the ability to move forward on those other areas. And if, in fact, the American people cannot trust that the border is controlled, you are not going to be able to pass this bill. So you are going to have to help us figure out how to do it.

And I would disagree. GDP measures our economy. It is the final result of consumer confidence, employment, investment, and everything else. We do look at GDP because that is the factor, that is the ultimate number. First of all, why is 90 percent considered effective control of the border? I would like for somebody to explain to me why 90 percent is effective control of the border. And, No. 2, how are you going to come up with an effective denominator? Because you are not going to sell the vast majority of Americans on immigration reform until you sell them the confidence that we have it under control and that the number does not vary; and if it does vary, we know that number is an actual number, a real number, not a guesstimate.

Mr. FISHER. Senator, I will answer, take a stab at your two questions.

First, the 90 percent, when I was with the staff developing the implementation for our new strategy, we were setting strategic objectives, and one of the measures against the strategic objectives specifically about being able to protect this country, is we stated at or in excess of 90 percent. It was not 90 percent. In other words, we were setting a strategic goal to be able to take the capabilities that we have had over the last few years and how do we optimize that capability and how do we measure that. That has been an effort, an ongoing effort for the last 3 years. It is not the only metric. It is taken with a whole host of other measures that we look at to assess risk. It is not just about 90 percent. So 90 percent was the minimum, and when I was asked the question previously—actually, my staff asked the question, “Well, Chief, why is it at or in excess of 90 percent?” And I said, “Basically, it is because it is an A.” It is an A. If you are going to set a goal for border security and national security, anything less than, at a minimum, 90 percent would be untenable in terms of a goal.

Senator COBURN. Why 90 percent? Why not 98 percent? In other words, here is my point. If we are going to get immigration reform through, if you are going to get it through the House, we are going to have to do a whole lot more on what is the definition of a controlled border than what is in this bill.

Mr. FISHER. I agree with you there, Senator, yes.

Senator COBURN. Or we are not going to get it. It is not going to happen. You are not going to have the votes for it. So if, in fact, we really want this to happen, we have to start addressing this now. And you cannot have any false observations on this.

The political reality is the American people want to know the border is controlled, and when we say 90 percent it is controlled, they are saying, well, that means 10 percent of it is not. That is the first thing that goes through most Oklahomans' heads, so why is 90 percent the number?

So I do not know that the number means that much. I agree with you. The fact is why don't we have a secure border. And what is a secure border, and how do you measure that? And that is one of the questions Senator McCain asked the Secretary. What does it mean? What is a secure border? And how do we demonstrate that? Where are the metrics that actually show that? I will not spend any more time on it.

Mr. Heyman, let me ask you, you said in your opening statement—and I do not think you meant this, but you said it. “We screen all cargo.” Did you mean to say we screen all cargo?

Mr. HEYMAN. Yes, Senator. Screening has to do with our—we take a look at all cargo coming into the United States. We evaluate it for its risk, and we make a judgment at that point what is the next step. Some of the cargo that is high risk we will then—

Senator COBURN. Screen.

Mr. HEYMAN [continuing]. Scan. And then there is terminology here, so screening has to do with the vetting in effect of all of the cargo that comes to the United States—

Senator COBURN. Well, that is a very different meaning than what your testimony actually implied, because the American people need to know right now we are not screening all cargo.

Mr. HEYMAN. We screen all cargo. We do not scan all cargo.

Senator COBURN. We make a judgment about whether or not it should be scanned, and that is what you are calling “screening.” And that is very much different—because there is no assurance there. It is an assurance on the judgment of somebody—of whether or not the cargo should have been scanned and should have been investigated more. I just want to be real clear because I do not want the American people—as a matter of fact, Congresswoman Hahn is very concerned about that, and we are working with her on it in terms of screening cargo and port security related to that. So I just wanted to clear—

Mr. HEYMAN. Yes, we do—

Senator COBURN [continuing]. The nomenclature up. I understood what you meant, but the American people will not. When you say we screen all cargo, they are thinking all the cargo has been checked to make sure that there is no problem with it.

Mr. HEYMAN. We do have a risk-based approach where we make sure to evaluate all cargo against potential risks, and we triage that to say which ones do we need to inspect, which ones do we need to open, and we do that for all the cargo coming into the United States.

I just wanted to make another point on—I know we finished the discussion on metrics. I might want to just add one other point on that.

Senator COBURN. OK.

Mr. HEYMAN. Because if you look at one of the things we are doing, where we are today after years of work and investments on border security, we do have, in effect, a net zero immigration flow, which is another net metric that people could look at. And I think one of the things that is really important, as I was saying, is that there are a lot of things that are important as we talk about border security, whether it is the border crime rate, whether it is seizures at the border, whether it is immigration flows. And we will work with you on this because it is important.

Senator COBURN. Well, they are all better, and I congratulate you, because I think all the agencies have done a much better job. We have better numbers than what we have ever had before. I do not disagree with it. The question is whether or not it is adequate, because if we had 98 percent control, and the 2 percent control were terrorists, we would not think that was control. So it is not just the number. It is who is in that number that got away that we did not catch that could actually cause us harm.

So it is important you help us refine this as this goes through the legislative process so that we can actually build that assurance in there.

Mr. HEYMAN. We will work with you, sir. This is too important not to.

Senator COBURN. I have one other question. When somebody leaves the country that is here on a visa, that is pinged back to a list, correct? Everybody that is leaving this country on an outgoing visa.

Mr. HEYMAN. Yes.

Mr. MCALEENAN. That is correct.

Senator COBURN. So why is the entry-exit visa so problematic in terms of cost that when we are already having this going to a central computer, why—explain the technologic problems and the cost problems that you said in your opening statement? Because I do not get it. If we are already capturing the data but we are just not using it on the exit visa program, why not?

Mr. HEYMAN. Thank you, Senator. I appreciate the opportunity to elaborate on that.

What I was describing in my opening statement is the congressional requirement post-9/11 which asks for a biometrically based system, which is one which uses either fingerprints or iris scans and things like that. That is what is costly. The ability to deploy that, where you deploy it in the airport and how you deploy it and the labor cost is where that \$3 billion cost comes from.

That is where Secretary Napolitano said, well, we have to have something in place now. We cannot wait for the costs to go down, although we should continue to research that, and we are.

Senator COBURN. Right.

Mr. HEYMAN. And so she directed us to do an electronic entry-exit system based upon the current biographical information. So we take your information from your passport when you enter. It goes into the database. And when you depart the country, that is matched. A match indicates that somebody has left. A non-match past the duration of one's visa requirements means that you are an overstay or a potential overstay, and we have to look into that.

Up until a couple years ago, the systems that do all of that, which there are many across the Department, and that look at resolving whether somebody is, in fact, an overstay, that was all done manually. And we have in the last 2 years automated that process, linked up the databases to do the vetting for national security and public safety, moved that into a place right now, as of April of this year, where near real time now we are sending on a daily basis to ICE for action the folks who have——

Senator COBURN. Overstayed.

Mr. HEYMAN [continuing]. Likely overstayed. So that is a much more cost-effective way of doing it.

Senator COBURN. I agree.

Mr. HEYMAN. It is electronically based, and it is in place today. We will be improving it over the next year.

Senator COBURN. Thanks for clarifying that. Senator Johnson.

Senator JOHNSON. [Presiding.] Thank you, Senator Coburn.

First of all, I truly want to thank you for your service. I realize these are enormous challenges, extremely difficult. And I also agree with Senator Paul. The purpose here is we need to fix our legal immigration system. We need to solve this problem. I want to see an immigration bill pass. But certainly, as I talk to members of the public, there is a high degree of skepticism about securing the border, and I am concerned about this particular bill where it is more focused on a process or more focused on who is going to certify whether the border is secure as opposed to actually passing a bill that secures the border. So I would kind of like to go back to where I started my questioning in terms of the history of trying to secure the border. We have been trying to do this now for 30 or 40 years. We obviously have not succeeded, and, again, I am sure it is because we have not tried, but what is the enormity of the challenge? Have we simply not put the resources toward it? Is it just too big a problem we will never be able to solve? And I would kind of like to just go down the panel. Why haven't we been able to? And, really, what are the prospects of actually being able to secure the border in the next 5 or 10 years? Secretary Heyman.

Mr. HEYMAN. Yes, thank you, Senator, and thank you for your support of this legislation and the reform that will go forward.

One of the things that this bill does which has not been done in 30 years is it takes a comprehensive approach. You have to address the number of things that are broken in the system, and you cannot just address one of them.

To begin with, you have a magnet of jobs in the U.S. economy that attracts individuals. These are jobs that are, in effect, off the books because illegitimate travelers coming to the United States who are not lawfully present can go to businesses that are gaming the system by hiring people who are legally present. The bill addresses that through——

Senator JOHNSON. But let me just stop you, because part of the concern—I totally agree with you. You have really got two demands here. You have the drug trafficking. You have the workers that are required. Does this bill even come close to providing enough temporary work visas to fulfill that demand?

Mr. HEYMAN. So there are a number of different ways you are addressing this in the bill. One is to streamline our visa opportuni-

ties for individuals to come here, whether it is agricultural visitors, guest workers as it were, whether it is high-tech employment or otherwise. That is one way of satisfying it.

The other way is to take away the demand signal by saying it is illegal to do that and every business be required to do an E-Verify check to verify lawful presence in the United States. So if you are coming here and you are trying to get a job, you better make sure you are lawfully present.

Senator JOHNSON. What happens when people verify employment and then businesses still cannot fill the positions? What happens at that point with this law?

Mr. HEYMAN. When businesses cannot fill positions—

Senator JOHNSON. By the way, that is a common thread when I am traveling around Wisconsin and I talk to employers. They simply cannot fill good-paying jobs in the manufacturing sector today. Even with high levels of unemployment, we are not filling those.

Mr. HEYMAN. Yes, these are levels that are set in law. This is a continuous debate and discussion year to year as businesses continue to compete for the best labor that they can get.

One of the things that I think we need to continue to do is to invest in our own resources at home, our own labor at home, particularly on the high-tech jobs, investing in science and education that allows us to grow our own citizenry's skill sets so that we can fulfill those jobs in the absence of immigration.

Senator JOHNSON. OK. Let me move down the panel and just kind of go back to my original question. What has prevented us and what are the prospects moving forward?

Mr. McALEENAN. First, I agree with the Assistant Secretary on the need for a comprehensive solution. In terms of your question, Senator, on the enormity of the problem, just to give you a quick vignette that I think highlights the overall picture, 225 million people are crossing our land border each year, critical to our North American economy, our partnership with Canada and Mexico. Prior to the creation of CBP, about 5 percent of those people were actually queried and checked in the law enforcement system. They could cross with up to 6,000 different types of documents—State IDs, birth certificates, you name it.

In 2007, 2008, and 2009, the Department of Homeland Security implemented the Western Hemisphere Travel Initiative. The first step was a policy decision that only five documents would be acceptable for crossing the international border. The second part was implementing technology that would enable us to check those documents quickly and make sure that somebody was secure as they crossed the border. That is license plate readers, radio frequency identification (RFID) technology, and new primary systems.

The implementation of that took hundreds of millions of dollars and several years but has dramatically changed the border. We now query well over 98 percent of all people crossing the land border. We have reduced fraudulent document attempts. We have increased arrests and increased security without slowing down that traffic. That is the kind of thing we have to do.

Senator JOHNSON. Let me quickly move on, because I just wanted to ask one more basic question. Again, when Secretary Napolitano was before us very early, 2 years ago, I asked her: "Do

you have enough resources? What would it cost to secure the border?" And she said she had enough resources.

I am not quite sure of that, so I do not know. Is it a matter of resources? And then, second, have you ever been tasked with the job of saying this is what we need to do to secure the border, actually come up with the plan? I mean, if we need more fence, this is how many miles of fence we have to build, this is how high it needs to be, this is how it has to be constructed. If we need more boots on the ground, this is how many boots we need on the ground.

Have you ever been tasked with that? And if not, is that your understanding of what is going to be required with this bill? Finally come up with that plan which I guess I would be kind of scratching my head if we have been trying to do this for 30, 40 years, why don't we have that plan in place right now?

Mr. FISHER. Senator Johnson, I came back to Washington, DC, to serve again at the headquarters component 3 years ago, and over the last 3 years—and it was something that Senator Coburn mentioned, and really probably within the last 6 months, specific hearings on asking the very question that even the Chairman had mentioned: What does it mean to have a secure border?

Now, we have defined that because, as we were transitioning our strategy, we identified what that meant to us in our implementation, and we will be able to adjust to that, depending upon what the end state looks like. Within our own strategy, when we look at the implementation, what is the end state, it is not a static position. It is not something that on 1 day it is secure and the next day it is not. It is more predicated on evolving threats and what that risk is at any given time to this country.

And so the next question I was asked was: "Chief, tell us when the border is going to be secured." And my general response to that is: "When there are no more bad people looking to come into this country illegally between the ports of entry." That is the only time that I would feel comfortable to come before this Committee and others and suggest that the border is definitively secured. It is not an easy process. I do not offer it even in the context of an effectiveness ratio, that somehow this is a scientific method and that I can assure the Chairman and this Committee or the American people that at any given time we will be able—on 4,000 miles on the northern border and 2,000 miles on the southern border, be able to say with 100 percent certainty the amount of people that enter, and of that number, how many people we apprehend. The terrain does not allow it. The vastness within our borders does not allow us. However, that does not mean we cannot accomplish that.

Senator JOHNSON. But, again, I understand that, but have you ever been tasked with the challenge of laying out a plan? I mean, basically a dream list—

Mr. FISHER. Yes.

Senator JOHNSON. And do we already have that in place? Can we review that?

Mr. FISHER. Yes, sir. Our Strategic Plan of 2012–16 was published last May when the first year of implementation—it is certainly available to you and your staff, and I would love to give you a personal briefing on that if you are interested, sir, and to give

you insight into what implementation looks like to include the measures that we have been putting together over this past year.

Senator JOHNSON. So if that is already in place, why are we looking at this bill to develop another plan? I mean, why aren't we looking at that and implementing that with this piece of legislation?

Mr. FISHER. Our strategy, just to be clear, only takes into consideration between the ports of entry. We are working within both the CBP and the Department's strategic plan and the guiding principles that are set forth in the Quadrennial Homeland Security Review (QHSR). Those are all nested together. That is why in the earlier question I felt comfortable that the timelines within the current draft bill suggest that implementation is doable, because a lot of that work is done. It is just a matter of integrating those and then identifying the definitive end state that defines whether or not the border is secure or not and what those parameters or what those indicators are to help us gauge whether, in fact, we do need more resources, whether we have to shift resources from one area to the other.

Senator JOHNSON. OK. Thank you.

Thank you, Mr. Chairman.

Chairman CARPER. [Presiding.] Those are all good questions. I just want to say thank you so much for coming early and staying late yet again—as we all are.

One of the things that I am just going to walk back in time a little bit with you, if I could, before I ask another question or two, during the 8 years I was privileged to be Governor of Delaware, I would submit an operating capital budget to the legislature, and my Cabinet was expected to defend the budget. And if they went to a hearing and said, well, Secretary X, Y, or Z, this is what Governor Carper has suggested be allocated to your department, and for them to sit there and say, "Oh, no, that is not right. This is what we really need," we would have been looking for new cabinet secretaries. And for every President I have seen here since Ronald Reagan right up through President Obama, there is a similar kind of discipline at work. And if you have a chance as a Cabinet Secretary to say, "These are the resources we would like to have, financial, human and otherwise," and when the President submits the budget, you are expected to defend the budget, whether it is a Democrat or Republican President. And part of our job is to ask tough questions so that we can actually ferret out where the real resources should be allocated.

The fortunate thing here, we are going to have some money. We are going to have some real money. We are going to collect fees. There are a number of fees called for in the proposal by the Gang of Eight, fees proposed by the President. We are going to have some resources. And the key is for us to allocate those resources where the risk is the greatest, where the payoff is the best; and, second, to make sure that we are looking to see what works and what is appropriate for a particular sector and do more of that and find out what does not work and do less of that.

Senator JOHNSON. If I could request, though, as long as this plan is already in place, I think it would be an extremely interesting hearing to have a hearing simply on that. Let us take a look at the



current plan that the Border Patrol actually has in place, and let us evaluate that and see if we cannot throw that into the bill.

Chairman CARPER. And, actually, if you look at what is in the Gang of Eight suggestions and the Administration, one of the things that is in the plan for the Department is do not just look at the areas between ports of entry, the big ports of entry. Put some resources in the ports of entry, where you have thousands of trucks, cars, vehicles, people, pedestrians coming through, and so that is part of their plan, and actually I think that is one of the things that we will do. But you are right. This is a shared responsibility, shared by the Administration, hopefully enlightened by our experiences, our visits, our backgrounds and so forth, our staff, and I am encouraged that we are going to do some really smart things.

Will it ever be 100 percent? I do not think so. Can it be perfect? Probably not. But can we do a better job? You bet we can. And our goal, I think, is if it is not perfect, make it better. And we are getting a lot of good ideas here, and I think there is just a good spirit here. I am encouraged with what I am hearing and from both sides of this dais.

I have a couple of questions I want to ask, and, Senator Johnson, you are welcome to stay longer if you would like. It is your call.

I want to go look at the issue of visa overstays. Most of us, most people you ask, most people in this country, do you think—how serious a problem is it when people come to this country, they are legal, they are here on a student visa, a tourist visa, maybe a worker visa or whatever, and they simply overstay, not just their welcome, but their legal limit? And as it turns out, there are a bunch of people that fall in that category, and my understanding is that number is rising. It is not like 5, 10, or 20 percent of those that are here illegally. We could be talking about as many as 30 or 40 percent.

Can anybody try to give me a number on that? Again, we are calling them visa overstays. How significant a problem is it? Go ahead.

Mr. HEYMAN. I will take that and, Dan, if you want to comment, too.

Senator, you ask a great question. It is a question that people have asked going back 20, 30 years, which is there an interest in the Federal Government in publishing visa overstay numbers, and we talked a little earlier—you may have been out at a vote—about how we do identify and track overstays, what is the system for doing it. It is basically matching an entry and an exit record electronically and then running it against some databases to ensure that the person has either left the country or still resides in the United States.

That process for identifying and tracking overstays has been one that has been long coming, and there have been a number of requests by Congress to identify that system, to develop that system. And it has only been within the last 2½ years probably that we have actually been able to build a system that allows us to have the fidelity of that data so that we can actually publish it. It has not been published yet. We have committed to getting those numbers out by the end of this year for the first time in the government's history. We have done that by an entire Department work-

ing together to automate the system of tracking entries and exits, linking up the databases, improving our matching algorithms, and we will be able to publish that information later this year.

Chairman CARPER. It would be nice if you could give us some insights on that question before the end of this year.

Mr. Ragsdale, do you want to add something?

Mr. RAGSDALE. I would just like to add, one of the advantages of a comprehensive immigration reform perspective is matching visa categories with the demand, having a worksite enforcement regime where there is tough enforcement, so there is not a magnet for folks to overstay, and then a codification of priorities that, when folks overstay, we will be able to quickly identify and remove them. So it is the balance that this bill posits that we think could be effective going forward.

Chairman CARPER. OK. Are these overstays—here is an idea, and Senator Johnson and I may have discussed this before, but I just want to share it with you all here again today. In my old job as Governor of Delaware, we used to start parenting training literally when a newborn baby came into this world in a hospital. We did followup parenting training in thousands of homes, sending out parenting trainers to those homes, especially in high-risk situations, to make sure moms and dads had the skills that they needed. We provide I will call it, a 5-year calendar, like a Cliff Notes on how to raise your baby in terms of checkups, immunizations, food, diet, all kinds of things for the first 5 years, sort of like 5 years Cliff Notes for raising your newborn baby.

We have much smarter ways to do this sort of thing now. Johnson & Johnson has come up with something called “Text for Baby,” and it is the ability to send to a new mom or dad on their phone, using texting, reminders: You have a doctor’s checkup coming up in 2 weeks. Or you have a doctor’s checkup coming up tomorrow. Immunization, your baby should be getting this immunization today, tomorrow, next week, next month. Just all kinds of things using Text for Baby. Almost everybody, especially younger people, have cell phones. They do a lot of texting anyway. This is just a good tool, a very cost-effective—sort of like a digital solution or digital successor to what we were doing with paper 15 years ago.

One of the ideas that I heard when I was down on the border somewhere on this was an idea that why don’t we do a similar thing with people who are here legally but not forever. They are not here on permanent status. They are a student, they are a visitor, they are a tourist, they are a worker. And just send them a reminder, text them: You have a month to go on your visa. You have 2 weeks to go. You have a week to go. You have a day to go. And the idea that people know that we know that they are here, we know that their time is running out, and we are watching them, and that could probably do something positive. We are talking about a lot of technology, of stuff up in the air. There is one that might use the airwaves, but in a different kind of way.

On ports of entry, we have already talked a little bit about that. But we are talking about 3,500 new officers at ports of entry. What can you all tell us about how those officers might be deployed and what concrete improvements we could expect to see in border security and legal trade and travel? For instance, where are some of the

longest crossing delays on the southwest border? And how much could we hope to reduce those times? Who would like to take a shot at that? Yes?

Mr. MCALEENAN. Thank you, Chairman. I will take a shot at that. As a former Acting Assistant Commissioner for Field Operations, and to Senator Johnson's question, have we ever been asked what do we need resource-wise to secure and facilitate legitimate trade and travel, that was the question that we were asked with the workload staffing model and the resource optimization strategy that we submitted with the fiscal year 2014 budget. It identifies the need for 3,477 officers at ports of entry, and they would be deployed based on the greatest need. That is determined by the workload, by the enforcement results, and by growth of facilities, and also risk. So it is a combined formula that is incorporated in the model, and we have some significant wait time challenges, as you noted, Mr. Chairman. In the air environment, we have seen air traffic grow 4 percent a year for 3 years in a row. It is expected to hit that mark again. We are going to see over 100 million international air travelers. And the wait times have grown commensurate with that, even non-linearly above the traffic growth. So we need to keep pace. We have available booths, we have infrastructure at the airports, and we want to put additional staff there to lower the wait times.

The sequestration experience gave us an example of what happens if we cut staff. The wait times have gone up dramatically in many of our major airports during peak periods, and we would like to counterbalance that, not only getting back to our current level but to go beyond that with the proposals in the 2014 budget.

On the land border, being able to staff all booths at our key crossings, not only during the peak period but leading up to that peak and extending beyond it, will balance out our ability to process that traffic, reduce wait times, like we are seeing at San Ysidro, up to 4 hours right now on certain high-traffic days. We need to get those down as we commit to our trusted travelers getting a shorter crossing of 15 minutes or less.

Chairman CARPER. OK. In terms of best bang for the buck, let me just followup on your response. Anybody else is welcome to answer this. But in terms of best bang for the buck, force multipliers, investments in whether it is in technology or infrastructure at the ports of entry, best bang for the buck. We saw gamma ray devices. We saw portable handhelds, that they are able to—literally, as the truck came through, made the entry of somebody sent to the officer who was going to later talk to the driver. They literally had in their handheld pretty much the history of the vehicle, their visits to the border, the driver's visits to the border. Really impressive stuff. But let me just say, just some of the ideas, technology ideas, it could be handhelds, it could be others, the ability to detect radiation in really smart ways, but what are some of the best force multipliers with the technology and infrastructure that we are looking at these ports of entry?

Mr. MCALEENAN. Well, you hit on two of them right there, Senator: The mobile technology, we have a proposal in the 2014 budget for increased mobile technology. That takes our system and support

right to where the officer is doing the work, not chaining them to a fixed terminal.

Additionally, the improved non-intrusive inspection (NII) equipment, like our Z-portals where we can run vehicles through at very low levels, but still be able to detect any anomalies.

And then the third thing that is in the budget that is critical is the concept of pedestrian re-engineering, using kiosks so that when a pedestrian approaches our officer, they have already had their documents checked, they have already had their system checks run, so we can process them about 30 percent faster, shorten those lines and get people moving more quickly with advanced technology.

Chairman CARPER. I would just say to Senator Johnson, my time has expired, and I am going to yield back to you. But in terms of your point earlier, we want the Department, if you will, to tell us what their plans are. And I think what we are hearing is something that actually makes sense to me, seems intuitive, and it looks like we will have some resources. They have a plan. A lot of this meets the common-sense test, so I think we might be on to something here. Senator Johnson.

Senator JOHNSON. I just have a quick question, and I have not been down on the border with you, but that was one of the first trips I did make, down to Nogales, and my impression was, first of all, inadequate fencing. I could not believe—and we did not have exactly the high ground there, either. But, we saw the beautiful port of entry that was being constructed, but certainly the input from the agents was, OK, we have the infrastructure, we do not have the manpower. So just very quickly to you in terms of your plan, you say you wanted close—was it 3,400? Where are we at right now?

Mr. MCALEENAN. Our total staffing nationally is 21,775. That is the—

Senator JOHNSON. But in terms of port of entry. You were talking about a plan that you needed thirty-four—what, 3,474? I cannot remember the exact number.

Mr. MCALEENAN. Yes, the numbers are very similar between Border Patrol agents and CBP officers. It is 21,370 for Border Patrol agents, 21,775 for CBP officers. So it would be a significant increase, about 17, 18 percent of our staff.

Senator JOHNSON. OK, and that you think would actually accomplish the objective?

Mr. MCALEENAN. That would help us catch up with the tremendous growth in trade and travel and secure that in a much more effective and efficient way.

Senator JOHNSON. So without percentages, just numbers, how many additional agents do we need in the actual ports of entry on the one hand and then in terms of controlling the borders in between the ports of entry? Can you give me just numbers, what do you think we need, versus where we are today?

Mr. MCALEENAN. Versus where we are today, we need an increase of roughly 3,500 CBP officers.

Senator JOHNSON. OK, total. And that is ports of entry?

Mr. MCALEENAN. That is for ports of entry.

Senator JOHNSON. And what about in terms of in between the ports of entry?

Mr. FISHER. Senator, a lot of that has to do with the amount of technology that is going to be online here in September—I am sorry, in the spring and in the fall, both in terms of mobile video surveillance systems, we have the integrated fixed towers coming online, scheduled for fall; we have replacements for the remote video surveillance systems on previous pulls on the border. So a lot of that, once we start taking a look at getting that technology, then we take a look at what is the response requirement going to be in terms of Border Patrol agents. Once we have that last lay down on the technology, we will be able to assess where we have those Border Patrol agents.

And the other piece, which is really critical, is the Deputy Commissioner mentioned the Border Patrol agent staffing right now is 21,370. What is more important than just whether that is the right number is do we have those agents in the right locations given our risk assessment, and the answer to that is no. I want to be able to have the flexibility and mobility with those agents to move Border Patrol agents in areas that we have already identified as low risk, and I think given the measures in some of those areas like El Paso Sector and Yuma Sector, be able to move Border Patrol agents from one location to the other, which may not require an additional increase of 21,370, but a re-evaluation of if we have those Border Patrol agents in the right location.

Senator JOHNSON. So why do you not have the flexibility now. Why not?

Mr. FISHER. For a couple of reasons. One is the money that is required to move Border Patrol agents en masse. I am talking hundreds of Border Patrol agents from one location to the other. It was not available in 2013, and it does not look like at this point it is going to be available in 2014. The other thing is—

Senator JOHNSON. So it is a resource issue as opposed to policy issue.

Mr. FISHER. Well, part of it is a resource issue. The other piece, too, because the vast majority of Border Patrol agents that I would want to move from one location to the other are part of the bargaining unit, so it would require bargaining unit negotiations. And the other piece also is that we just do not have the ability overnight to move wholesale all of those Border Patrol agents into those locations and maintain them in that location for a long period of time. These would be permanent moves as opposed to just a short 30-to 60-day temporary assignment, which we do currently.

Senator JOHNSON. Now, I certainly understand when I ask questions, do you have enough resources and people needed to defend budgets, I mean, I get that. But I will still try again—not in terms of dollars but manpower. I am just trying to get some sort of sense if we have in total 42,000 agents that we are talking about, right? 21 and 21. You need another 3,500 in the ports of entry. I mean, are we talking about just thousands of additional agents? Or if we are going to really secure the border—again, realistically—because my concern is the American people have no faith that we will ever secure the border. I am just trying to get to the point, how many boots on the ground will it really take? Is it going to be 42,000?

Is it going to be 50,000? Is it going to be 100,000? Can you just give me some sort of ballpark sense and actually kind of give the American people a ballpark sense of what it is going to really take to finally once and for all—and, again, it is never going to be perfect, I understand, but basically to get total operational control of the border, how many people will it take?

Mr. FISHER. Senator, it is very difficult for me to answer that question directly because it really depends on what do you mean by “truly securing the border” and “significantly securing the border”? That has been, I think, a lot of—

Senator JOHNSON. Where you would be satisfied, where the American people would be satisfied, so we are not looking at another 10 million illegal immigrants 10 years down the road or we are not going to be looking at another wave.

Mr. FISHER. Right, but I am going to go back to identifying what the end state is going to be, and there is basically—let me show you at least the pendulum in the discussion that I have been involved with over the last couple of years, having come back. One is those that when they talk about securing the border, in their mind, right?—and I am not talking about committees, by the way. I am talking about community members that I have talked to, I have talked to Border Patrol agents, and trying to get an assessment to be able to implement the strategy and what the end state is going to be.

There are those that would suggest that we have to 100 percent with certitude stop and prevent everybody coming across the border. If that is the end state and that is people’s minds of operational control of border security, I have no idea what the boots requirements are going to be and the technology requirement, not to mention the financial impact to be able to achieve that end state. And even with unencumbered or unrestrained resources, even with certitude, it is going to be very—

Senator JOHNSON. How about with the goal laid out in this bill, in terms of what we are talking about there? With that goal, how many people?

Mr. FISHER. Right. My staff has actually been looking at trying to identify what the requirements are going to be under some of the draft legislation. Assuming that we look at, at a minimum, 90 percent or greater in high-risk areas and giving the flexibility to the Border Patrol and within CBP, to reallocate those resources that we already have, and to make sure that we optimize the capability that we have, whether it is technology in the air, whether it is the integration of all the technology, I would be at a better position to answer that question once that is done. But I do not have that answer right now, Senator, and quite frankly, I do not think it is just a matter of another 4,000 Border Patrol agents and, therefore, undefined we would be able to achieve the end state.

Senator JOHNSON. OK. I understand, but I appreciate your working with me on this one.

Mr. FISHER. Yes, sir.

Senator JOHNSON. Thank you, Mr. Chairman.

Chairman CARPER. I am going to just followup here real briefly on Senator Johnson’s question, and I want you to be thinking about this. Sometimes when we hold hearings, our witnesses have an op-

portunity to give an opening statement, and sometimes I like to give them a chance to give a closing statement. We normally give you about 5 minutes for an opening statement. I will give you about a minute, each of you, for just a closing statement. It could be kind of a reflection back on some of the questions we have asked you, some of what you have heard said or not said that you would like to just—and, Chief Fisher, I will ask you to join us in doing this. This would be an audible for you, but you are pretty good at that.

Going back to the very good line of questioning from Senator Johnson, I do not know that there is one number for a number of human bodies, personnel. I just do not know that there is a good number. And I do not know that there is any one technology, whether it happens to be a handheld, whether it happens to be these detectors, these gamma rays that enable us to look into trucks, big trucks, or whether it is our ability to measure radiation coming out of vehicles.

I do not know that it is lighter than air. I do not know if it is drones or C206 aircraft. I do not know that it is just flexibility. I do not know if it is just money. It is all the above. And we have an opportunity here to do an all-of-the-above policy, and in a budget-constrained world, but in this case we are going to have some resources here, and to ask this question: What works? What do we need to do more of? Maybe what do we need to do a little less of?

Part of the answer here is some of the flexibility, and one of the things that is tough about it, if you think about it, if you want to move folks who are on—the Border Patrol people from the eastern part of Texas over to Yuma in Arizona, they have families, most of them have families, and what is difficult is you just cannot say, “OK, we are going to move you here from eastern Texas and put you over here in Yuma for the next 2 years. And, by the way, I know you have two or three kids and a spouse, but that is too bad.” We just cannot do that. So there is the human-side sort of factors in here as well.

So those are just a couple of comments, but I thought it was a very good line of questioning, and I appreciate your bringing it up.

One last question I will ask, before I ask you to help me give the benediction, and this goes back to metrics. There has been a lot of discussion of metrics here, and I will not belabor that, but I do have a question. Based on the data that you have available, can you answer the question our expert witness posed, namely, where are the vulnerabilities for increased illegal immigration the largest: at the ports of entry, between the ports, or through visa overstays? And maybe if you can say of those three—ports of entry, between the ports, or those who came here legally but are no longer in a legal status—maybe give us some idea of which should be our top priority in terms of vulnerability, maybe No. 2, maybe No. 3. And I do not know, Ms. Richards, it may not be a fair question to ask of you. If you feel like you would like to give it a shot, go ahead, but this is not why we brought you here.

Ms. RICHARDS. Yes, I think I would defer to my colleagues.

Chairman CARPER. Fair enough. Mr. Ragsdale.

Mr. RAGSDALE. Just putting it into terms of risk, obviously the people we know the least about would be sort of our greatest con-

cern for law enforcement, so I would imagine the folks between the port of entry—we have certainly heard some conversation about folks we know very little about, so certainly that. At the port of entry, they obviously are inspected and admitted, so we know more about those folks. Similarly, with the folks that overstay and who was coming through a port of entry. So I suppose if I had to rank them—and, again, very difficult to talk in absolutes, but that is probably the ranking.

Chairman CARPER. OK. Good. Thanks. Chief.

Mr. FISHER. Mr. Chairman, with respect, I think I would have the Deputy Commissioner talk in terms of CBP lest I show my parochial answer and say it is in between the ports of entry. [Laughter.]

Chairman CARPER. OK. Mr. McAleenan.

Mr. MCALEENAN. To that point, Mr. Chairman, I think Deputy Director Ragsdale laid out the different considerations and different environments. Between the ports of entry is obviously vast and uncontrolled, and we very much appreciate your visits to the border and your engagement with our mission and our personnel there. At the point of entry (POEs), it is a controlled environment where we do have an opportunity to question and query travelers entering so we know more about them and more about their admissibility or not.

Obviously, I think Assistant Secretary Heyman has laid out the efforts on the overstays along with Deputy Director Ragsdale that are critical. That is why the bill attacking this from all angles is the best way to move forward because it needs to be a comprehensive solution.

Chairman CARPER. Mr. Secretary, just very briefly, please.

Mr. HEYMAN. You have a choice between ports of entry or not ports of entry, because people who have visas do come through the ports of entry. And in the last few years, we have made significant improvement in tracking, identifying, and sanctioning those who are overstays, and we will continue to make progress on that. We have real-time ability to revoke visas, to put lookouts out, and to go after folks for law enforcement purposes. So it is the people between the ports of entry who are unlawfully present and who are willing to break the law that we have the most concern about, and that is where I would put my concern there.

Chairman CARPER. All right. Thanks.

Ms. Richards, I am going to come back to you, and this is a chance for you to give a closing statement, if you wish. And we have not had the opportunity to ask you as many questions, so you can take a minute or two, if you would like. But, again, we very much appreciate your being here.

Ms. RICHARDS. Thank you, sir. I think in closing I would reiterate some of the points that I made earlier. The gentlemen on the panel all talked about the various policies and procedures and things that they are putting into place, the new technologies, the strategic plan, the determination that they are making on the number of agents that they need between the ports and at the ports. And I go back to the necessity of doing those plans very carefully and in full detail.



I think that is the way to success, for the Department to think through what they are doing before they spend the money, before they make a commitment to hire a certain number or have drones versus manned aircraft, I think they need to really go through the whole planning process very carefully first. And I think that they will.

Chairman CARPER. OK. Thanks. Mr. Ragsdale.

Mr. RAGSDALE. Thank you. I would just note that the comprehensive approach is a sensible way to go. We certainly understand that bringing folks into earned status will be helpful for the very reasons we just talked about in terms of finding out who they are. Certainly a worksite enforcement strategy that has penalties that are updated, as we see in this bill, as well as some criminal and civil penalties that really deter illegal conduct. And certainly also just the overall balance of sort of the labor and the visas, not only the high-tech but also the low-skilled so that magnet is diminished.

And then, finally, just making sure that the balance in terms of resources and staffing for special agents in the criminal investigative area as well as the civil immigration enforcement side is all balanced so we take a comprehensive approach.

Chairman CARPER. All right. Thank you. Chief.

Mr. FISHER. Mr. Chairman, I would like to answer the first question you posed at the beginning of the hearing, and that was what would you do, how would you implement with the money that would be perhaps attached both in the authorization and the appropriations process. But before I answer that, I think it would be fair to tell you what our end State vision is in terms of our strategy.

One is when you look at Secure Border, what does it mean in our current operation? It is one that reduces the likelihood of attack to this country; and, second, provides safety and security to the public.

Within that broad context, there would be three things that we would continue to build within our implementation plan with this bill. First and foremost, it would be our ability to increase our detection capability, more so in the mobile systems as opposed to the static systems. And we are also leveraging with the Defense Department, with a Memorandum of Understanding that was recently signed last year and starting to get equipment that was previously purchased by the taxpayers that we intend to use and test for our border security mission, augmenting those things that we have already received within the Department and deployed along with long-term detection capability. That would be the first thing.

The second thing—and I would just like to reiterate it—is flexibility to deploy and what type of technology and how we deploy that in different areas. We have to have that flexibility built in because it is not a static state.

And the third, let us talk about capability that we within the Border Patrol have to get better at, and it may not be so much in terms of dollars but proficiency, is our ability to increase our analytical capability about what all the measures mean and how do we take all the stuff that we collect and leveraging both in terms of what the Department has in experience and what CBP has, but building greater capability to understand the analytical framework

in which we design and implement our operations to really understand what the measures mean at the end state. But thank you for the opportunity, sir.

Chairman CARPER. Thanks for coming back and joining us today. Thanks so much. Mr. McAleenan.

Mr. MCALEENAN. Mr. Chairman, thank you. I would like to agree with you first that I think we are on the right track, that we have many of the fundamental foundational elements in place across the different pieces of this, and this immigration reform approach gives us a chance to bring it together in a comprehensive way. And that is really what we need to do next.

I appreciate again your leadership and engagement with our mission. I think Chief Fisher has very well covered the between the ports of entry aspects of what we need to do next. Thank you for the opportunity that you gave me to talk about the ports of entry. We have just got to continue to transform our processes there, be as efficient as possible. And we identified our staffing needs. We need to apply them appropriately and really between the ports implement that risk-based approach with the flexibility that Chief Fisher spoke about. I look forward to continuing to work with you and your Committee.

Chairman CARPER. Yes, sir. Thank you. Mr. Secretary.

Mr. HEYMAN. Mr. Chairman, thank you on behalf of the Department for holding this hearing and giving us an opportunity to put forward what I think is a good story about our border and our ability to secure it. We have made substantial gains in border security over the last decade, and particularly the last 3 or 4 years. We see that apprehensions are at historic lows, 49 percent down in the last 4 years, seizures at record highs, border crime significantly decreased in border communities, and by all accounts, that is a good story, and we should continue to move in that direction.

I think, look, the border is a living, breathing, permeable membrane that allows us both to sustain our daily lives through the goods and things that come through and the business transaction, but also to protect us against those who would do harm. We want to be able to expedite lawful trade and travel, and we want to be able to interdict threats at the earliest opportunity.

The Department of Homeland Security makes that a principal mission. There is no single solution that is going to allow for that complex and important mission to be accomplished. But I think this comprehensive immigration reform bill provides the best opportunity. Because there is no single solution, you need a comprehensive approach. You need to address the magnet that attracts people here for illegitimate work. We need to address the visas that are perhaps out of line and have been for a number of years. And we need to address the security and continue to build on, as we have talked about here, the technology deployment, the resources to secure the border. I think this bill does that. It is comprehensive. If it were easy, we would have done it 20 years ago, 10 years ago, today. It is not, but this provides us the best path forward, and this Administration supports it and will work with you to get it done. Thank you.

Chairman CARPER. Thank you very much for that statement.

I believe, in a closing comment of my own, I am reminded that a couple months from now it is going to be blazing hot down on the border. It will be 120 degrees. The sun will be bearing down, and the men and women who are serving us will be there to do their jobs. During times this year when we had monsoon rains, very hard rains, they had a lot of drought down there. But when it is raining hard or even hailing or whatever, they will be there doing their jobs. If rocks are being thrown at them, people taking shots at them, they will be there. Good weather, bad weather, day and night. And we need to keep that in mind and just to again express through you our appreciation for the very good work that is being done, and sometimes in very difficult circumstances, and for the most part done in a very good spirit. People take pride in their work. I have been really very favorably impressed, very encouraged just by the spirit of the men and women that I have talked to, whether it is California, Arizona, Texas, or up on the Canadian border. Very encouraged.

We aspire—I know you do, too—to be nearly perfect in the work that we do. That is probably not achievable here. I was in places along the Rio Grande River last week where you could put a Border Patrol officer every 50 yards, every 100 yards, and it would be tough to be able to stop everybody from getting through. Does that mean we do not try? No. We have to be smart, think smart, figure out where the risks are, where the risks are highest, allocate the resources that make the most sense there.

We have an obligation here to ask tough questions. We are stewards of the resources of our people in this country, the taxpayers, and the good news is we are going to have some extra resources. And the question is: How are we going to use those resources? Where are we going to invest them? You can help us decide how to do that, and you have given some great answers in previous exchanges and, frankly, a number of other good ones here today.

So as we close, let me just say I am not discouraged. I am encouraged. And there is a very good spirit here in this Committee, and I hear from the responses here that there is actually the makings of a pretty good comprehensive, all-hands-on-deck approach, all-of-the-above kind of approach that makes a whole lot of sense.

The last thing I will say, I might be wrong, but I think the people who say that if we had a smart, comprehensive immigration policy in place, one that actually allowed people to legally go from Mexico into the United States to work for a while and then go back, to go back home where a lot of them want to go, anyway, that would be helpful.

To the extent that we had a situation where somebody comes to this country to go to school, go to college, get a degree, maybe an advanced degree, maybe in one of the science, technology, engineering, math (STEM) subjects—and they actually had the opportunity with an undergraduate degree or an advanced degree, had a chance to stay here, the idea of stapling that green card to their diploma, that is going to help a little bit, too, in terms of those folks that overstay their visas.

But I want to thank you all for joining us today. Thanks for the work you do, and a special thanks to Anne Richards, the real Anne Richards. I served as Governor with former Governor Richards and

had great affection for her, and we are delighted that you could be here, and your presence reminds me of the great service she provided for the folks in Texas and our country.

I understand that the hearing record will remain open for another 15 days, that is, until May 22 at 5 p.m., for the submission of statements and questions for the record.

With that, we are going to adjourn this hearing. Thank you all very much.

[Whereupon, at 1:05 p.m., the Committee was adjourned.]

## A P P E N D I X

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### Opening Statement of Chairman Thomas R. Carper

#### **“Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)” May 7, 2013**

Good morning everyone, and welcome to the third in a series of hearings this committee is holding to examine the gains in security that have been made at our borders over the past decade, and to review what impact immigration reform may have on the border. During our two previous hearings, we've heard testimony from experts, and from frontline personnel, about the dramatic improvements we have seen in our southern border region since the last time Congress debated immigration reform in 2006.

In recent years, we have made substantial investments in border security, and these investments are paying off. In 2006, the Border Patrol was averaging more than one million arrests of unauthorized immigrants each year, and the unauthorized population living in the United States had reached an all time high of 12.5 million.

Since then, we have added more than 9,000 Border Patrol agents, bringing their overall staffing to more than 21,000. We have also constructed more than 600 miles of new fencing, and deployed sophisticated cameras, sensors, and radars across much of the border with Mexico. In part because of these investments, apprehensions of individuals attempting to cross our borders illegally are at 40 year lows, and the unauthorized population in our country has actually decreased by about a million people.

Despite these developments, we are still facing challenges. All too often, however, these challenges have deep roots in our own domestic policies and the socio-economic conditions of our neighbors. One of our witnesses noted that we look to the border to solve problems that don't originate there. I couldn't agree more. We need to focus on the underlying causes of illegal immigration and drug smuggling.

The expert and frontline witnesses at our hearings earlier this year were all in agreement that passing immigration reform would make our borders more secure. It will do this by addressing several of the root causes of illegal immigration, providing workers and employers with legal avenues to fill the jobs our economy needs to thrive, and allowing our border officials to focus their efforts on criminals rather than economic migrants. I believe that the bill we are examining today represents a significant step towards achieving this goal. It will increase our security even as it provides a fair, practical, and tough path to citizenship for many—but not all—of the millions of people living in the shadows today. I commend eight of our colleagues—including Senator McCain, a member of this Committee—who have worked tirelessly and fearlessly to craft this bill. I look forward to debating it on the Senate floor.

The goal of today's hearing is to review the bill's border security provisions, which are in this Committee's jurisdiction. We have before us an excellent panel of witnesses from frontline agencies. We have asked the witnesses to give us their assessment of the bill, to tell us how they

would implement the border provisions, and to let us know what they believe may need to be added or changed to the bill.

There's an old Chinese proverb that I like to say: tell me, and I will forget. Show me, and I may remember. Involve me, and I'll understand. That is why I have tried to visit as much of the border region as I can. Three years ago I visited the California border, and over the past three months, I have visited our border with Mexico in Arizona and Texas, as well as portions of our northern border with Canada. My goal has been to get a firsthand look at what is working, what is not, and what more we need to do to better secure our borders, both with Mexico and with Canada.

I have personally witnessed the challenges that our brave men and women working on the frontlines face every day. The terrain they are dealing with varies widely along the border region, from the dense urban landscape of the border near San Diego, to the desolate and rugged desert and mountains of Arizona, to the lush vegetation and winding lengths of the Rio Grande valley in Texas.

Based on what I have seen, I believe that there is no one-size-fits-all solution for securing the border. The high-tech radars that work so well in Arizona likely will not penetrate the dense foliage along the Rio Grande in Texas. The drones that CBP flies work great in some areas, but can barely fly in others when the winds exceed 15 knots. Achieving the goal of persistent surveillance set by the bill we're examining today, then, will be challenging and costly. However, it is not impossible.

There are, for example, a number of common-sense steps that we can take to get better results along our borders. One of them should be identifying and deploying what I call force multipliers that are appropriate for the different sectors along the border. In some parts of the border, these may be advanced radar systems on drones. In others, it may be camera towers or systems that are handheld or mounted on trucks. We need to systematically identify the best technologies that make our frontline agents more effective and provide them with the help they need to be more successful.

One specific thing I have seen first-hand is that an aircraft without an advanced sensor onboard to help detect illegal activity on the ground is of very little value. Far too many of the aircraft we deploy in support of the Border Patrol aren't fitted with cameras or sensors that have been proven effective. In McAllen, where I visited just last week, we're flying three different types of helicopters—but only one of them is outfitted with these kinds of technologies. The other two are largely ineffective. We've got to be smarter than this.

By comparison, in Arizona I saw an inexpensive single-engine C-206 airplane that had been fitted with an advanced infrared camera system, which had proven to be extremely effective and inexpensive to operate. However, the Border Patrol has 16 more of these C-206 aircraft that don't have any advanced sensors on board and are barely used. We need to fix that. We also need to continue to develop and deploy cost-effective technologies, such as hand-held devices I've seen that allow Border Patrol agents to see in the dark or enable our officers at our ports of entry to more efficiently process travelers and goods.

Investing in our ports of entry will also be an incredibly important part of improving border security, and our economy as well. I am pleased, then, that the proposed legislation we're discussing would provide 3,500 new officers at legal border crossings nationwide. These officers represent a worthwhile investment for the country, helping to secure our borders even as they facilitate the trade and travel our economy so badly needs.

There are, however, some things that I believe may be missing from the immigration reform bill, and I plan to work with our colleagues to address them. One of the largest issues we are facing today is growing unauthorized immigration from Central Americans who transit through Mexico. I'd like to hear from our witnesses about what we can do to address this issue. One thing that we may need to explore is how to make it easier for our border officials to work with, and train, their Mexican counterparts in order to help Mexico secure its own borders.

I also believe that the Department of Homeland Security needs to do a much better job of measuring its performance at our borders, and that these performance measures must be made available to Congress and to the American public. The bill we are discussing today would make one such measure, the "effectiveness rate", public. While this is a good first step, I believe that there are a number of other metrics concerning our activities at and between the ports of entry that should also be made publicly available. I look forward to exploring these questions with our panel and believe our country stands to benefit enormously from the tough, practical, and fair policies laid out in this bill.

**Opening Statement of Senator Tom Coburn**

**“Border Security: Examining Provisions in the Border Security, Economic Opportunity,  
and Immigration Modernization Act (S. 744)”  
May 7, 2013**

Good morning. I want to welcome you all here today. I am excited to hear a discussion about what the Inspector General’s Office has said are problems and the answers to those problems.

ICE and CBP have a difficult job—an often times thankless job. I want to thank you now for what you do. It’s hard.

I am concerned with the immigration bill coming forward and the additional responsibilities that it would create, if that bill were to become law, and the ability of the agencies to carry out those responsibilities.

The reason that I’m concerned is because there are so many areas where we’re not effective today. Although we have an immigration problem, what we really have is a border control problem, a visa problem, and a guest worker problem.

And it is important that we fix the real disease, not the symptoms.

We do not have a secure border today. And we know that by the apprehensions. Even though they are less, it is still not secure.

I have a lot of concerns coming forward with the immigration bill. We will wait and see what happens in the mark-up. I think we made a mistake. We should have asked for sequential referral on it, because so much of it is going to impact the agency that is under the direction of this committee.

Nevertheless, I am very appreciative of the hard work of those giving testimony today. I especially want to thank Ms. Anne Richards for her hard work and the outlining she has done.

We have some other concerns, especially on the drone program. We sent a letter asking seeking answers about whether privacy protections have been established for that program over a month ago. We have not gotten adequate or satisfactory answers to those questions. And privacy protections are one of the things that must be a part of any drone program.

I look forward to your testimony. And again I thank you for your efforts. As Senator Carper has said, we really want to work as a committee to help you accomplish your jobs. Not throw up road blocks, but actually find out what the real problems are and what we can do about it. But also to hold you accountable for the things that you can be doing that you’re not doing today as outlined by the Inspector General.

Thank you, Senator.



## Prepared Statement of Senator Mary L. Landrieu

**“Border Security: Examining Provisions in the Border Security, Economic Opportunity, and  
Immigration Modernization Act”  
May 7, 2013**

I’d like to thank the Chairman and Ranking Member for holding their third in a series of hearings on border security. It’s especially timely as the Judiciary Committee begins markup proceedings this week on the Gang of Eight’s comprehensive immigration reform legislation. Congress received the President’s budget proposal for Fiscal Year 2014 last month, which includes relevant funding requests to patrol our borders, screen people and cargo at ports-of-entry, and investigate transnational crime. These functions are critical to our nation’s security and prosperity, and I appreciate representatives from CBP and ICE being with us today to discuss their efforts.

I chaired a hearing on April 23<sup>rd</sup> in the Appropriations Committee on the Department’s FY14 request including funding for border security and immigration enforcement. I intend to hold a separate hearing on the Gang of Eight’s proposal, in order to quantify the costs of additional border security and immigration enforcement measures contained in the bill, and to ensure that the legislation provides sufficient revenues to offset those costs without undercutting other areas of the Department’s budget, which has been reduced for the past 3 years in a row and is already stretched thin. I also plan to convene a roundtable later this month in the Small Business Committee to examine the bill’s potential impacts on America’s small businesses, including compliance with a mandatory EVerify regime, funding for STEM education and training, and technology transfer from the private sector to government agencies to improve border security. So I am very pleased to continue examining this important legislation through all 3 of these committees in the Senate.

I visited the southwest border in Arizona and California in 2011 with Senator Coats, my ranking member on the Homeland Security Appropriations Committee, and saw firsthand just how complex this challenge truly is. Smuggling networks have become increasingly sophisticated. We built a fence, and they devised methods to tunnel beneath it, fly UAVs over it, and send semi-submersible watercraft around it. Layered security, actionable intelligence, and interagency task forces are critical to addressing the problem, and the Coast Guard, National Guard, and U.S. Attorneys’ Offices all play an important role in assisting CBP and ICE in their enforcement mission.

Border security can be assessed in terms of illegal crossings, border apprehensions, deployment of personnel and technology, arrests made and contraband seized at ports-of-entry, crime rates along the border, or effective facilitation of lawful travel and commerce. By any of these measures, the southwest border is more secure today than at any other time in our nation’s history, thanks to a series of focused efforts and federal investments, including –

- 1) Doubling the size of the Border Patrol since 2000 from 9,212 to 21,444 agents and increasing its size seven-fold since the mid-1980s
- 2) Increasing the number of detention beds from 18,500 in FY05 to 34,000 now and ending the practice of “catch and release”
- 3) Conducting a record-high 400,000 deportations last year
- 4) Cracking down on criminal aliens by removing a record-high 225,000 last year, and increasing funding 25-fold since FY04 for DHS and DoJ programs that target criminal aliens for removal
- 5) Building 651 miles of secure fencing, installing vehicle barriers, and deploying networked cameras, sensors, radars, 24-hour lighting, and surveillance drones along the southwest border
- 6) Increasing the number of ICE investigators by 40% since 2000 to go after human traffickers, drug smugglers, and other criminal networks

- 7) Partnering with state and local law enforcement through the Secure Communities Program, which will be deployed nationwide by the end of this year, to check the immigration status of arrestees and automatically notify ICE so they can be placed in removal proceedings after local authorities process them according to laws
- 8) Increasing investigations into worksite violations, stiffening penalties for knowingly hiring illegal aliens, and expanding participation in E-Verify so businesses can confirm the legal status of new hires.

Apprehensions at the border have dropped by 79% since 2000 and recently hit a 40-year low. The undocumented population in the U.S. has actually declined in recent years, and outflows now exceed inflows. Increased security at the border, stiffer consequences for those who get caught, and fewer opportunities to work illegally in the United States have all contributed to better enforcement of our nation's immigration laws.

The Gang of Eight's legislation requires DHS to achieve continuous surveillance along the entire southwest border and a 90% effectiveness rate in every high-risk sector within 5 years, meaning that at least 90% of illegal entrants are apprehended or turned back. It requires DHS to develop a security strategy and fencing strategy within 6 months of enactment and provides \$4.5 billion to implement them both. If DHS fails to achieve its enforcement targets within 5 years, the bill provides an additional \$2 billion to establish a border commission and carry out its recommendations. Another \$1 billion is included to implement mandatory EVerify.

That totals \$7.5 billion for security and enforcement costs, paid for in part through the \$500 fine and \$1500 application fee outlined in the bill. I have concerns however about the long-term funding responsibility for 3,500 additional CBP officers and establishment of a potentially duplicative Bureau of Immigration and Labor Market Research within DHS when we already have a Bureau of Labor Statistics at the Department of Labor. I look forward to discussing potential costs with the Department to ensure that they're fully paid for within the bill and to cut wasteful spending where we can identify it.

We need to use our resources smartly. I want to make sure that the Department's "fencing strategy" also incorporates cost-effective technologies like UAVs, radar, motion sensors, and cameras so we don't address a 21<sup>st</sup> century problem with a 19<sup>th</sup> century solution and waste precious dollars on infrastructure that will not effectively stop smugglers from getting across the border. I'd also like to learn more about the proposed use of National Guard forces to support border patrols. The Guard brings considerable communications and surveillance resources to bear, but I'm not certain we should be using them for manual labor to construct fencing and border checkpoints instead of the private sector. I've reached out to the National Guard for their thoughts on this issue and look forward to examining it further.

The bill ties adjustment of illegal status to border security improvements by prohibiting undocumented immigrants from becoming "Registered Provisional Immigrants" and obtaining work authorization until DHS certifies it has begun to implement both the security and the fencing strategy. That's in addition to individual requirements they must meet related to background checks and payment of fines and back taxes. Furthermore, none of those individuals could adjust their status further to become Legal Permanent Residents until both strategies have been fully implemented, along with mandatory EVerify and a biometric exit system at U.S. ports-of-entry. Again, that's in addition to a series of individual requirements related to length of time living and working in the country, learning English and civics, and subsequent fees and background checks.

The security of our nation's borders is imperative from a security standpoint. We need to approach this mission in a cost-effective manner however and be mindful that in addition to 95,000 miles of coastline, our land borders stretch over 6,000 miles, and CBP is charged with staffing 329 ports-of-entry. Any security expert will tell you that it's not possible to completely *eliminate* risk across this entire frontier. We are facing declining federal budgets for the foreseeable future, and we need to develop an approach to border security that

doesn't choke off overland commerce with America's first and third largest trading partners. That means we have to spend smartly and learn to effectively *manage* our risk instead.

I look forward to the witnesses' testimony on their efforts to secure our borders, facilitate lawful commerce, and shut down criminal networks, and to working further with my colleagues on this committee and on the Small Business and Appropriations Committees to advance smart security and enforcement measures that are operationally effective for agents on the front lines, cost-effective for federal taxpayers, and workable for America's small business owners.

**Written testimony of U.S. Department of Homeland Security for a Senate Committee on Homeland Security and Governmental Affairs hearing titled “Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)”  
May 7, 2013**

**Introduction**

Thank you, Chairman Carper, Ranking Member Coburn, and Members of the Committee for holding this important hearing today on comprehensive immigration reform, with specific regard to the Department of Homeland Security’s (DHS) work on border security and entry-exit controls. It is a pleasure to appear before the committee to discuss DHS’s efforts on these important issues.

We are very encouraged by the bi-partisan work of the eight senators and their staff to fashion a commonsense immigration reform bill that will address the most serious problems with our current system. The introduction of this legislation is an important first step that reflects significant momentum toward our shared goal to reform the nation’s immigration laws.

As the President stated last month, this bipartisan bill is clearly a compromise, and there are issues on which we do not agree, but the bill is largely consistent with the President’s framework for commonsense comprehensive reform. The bill would continue to strengthen security at our borders and hold employers more accountable if they knowingly hire undocumented workers. It would provide a pathway to earned citizenship for the 11 million individuals who are already in this country illegally. It would also modernize our legal immigration system, allowing families to be reunited in a humane and timely manner and grow our economy by attracting the highly-skilled entrepreneurs and workers who will help create good paying jobs. These are all commonsense steps that the majority of Americans support.

As noted in Secretary Napolitano’s testimony before the Senate Judiciary Committee last month, DHS has made great strides in each of these areas over the past four years and, indeed, since the Department’s founding ten years ago. In order to build on this strong record, America needs a 21<sup>st</sup> century immigration system that meets the needs of law enforcement, businesses, immigrants, communities, and our economy. The current patchwork of outdated laws and requirements fails in each of these areas, and we are hopeful that this new bipartisan legislation will address each of these needs. We know what needs to get done to mend this broken system, to change our laws to create a 21<sup>st</sup> century system and one that lives up to our proud traditions.

The principles for commonsense immigration reform are encompassed in the “Border Security, Economic Opportunity, and Immigration Modernization Act.”

**Stronger Border Security and Immigration Reform**

Border security has changed significantly over the past ten years, not only in terms of resources, infrastructure, and operations, but also in how we assess and measure the state of an ever-changing border environment. Over the past four years, the Obama Administration has made historic investments in border security, adding more personnel, technology, and infrastructure; making our ports of entry more efficient to lawful travel and trade; deepening partnerships with

federal, state, local, tribal, and territorial law enforcement, and internationally; improving intelligence and information sharing to identify threats sooner; strengthening entry procedures to protect against the use of fraudulent documents and the entry of those who may wish to do us harm and enhancing our exit system to improve tracking and enforcement of overstays. We are proud of these achievements, which reflect the hard work of many DHS agents and officers and our partners, who work long hours and often at great personal risk.

These efforts have contributed to a border that is far stronger today than at any point in our nation's history, and border communities that are safe and prosperous. Since 2004, we have doubled the number of Border Patrol agents from approximately 10,000 to more than 21,000 today. Along the Southwest border, the number of Border Patrol agents has increased by 94 percent to nearly 18,500. Along the Northern border, we now have more than 2,200 Border Patrol agents. To facilitate the secure flow of people and goods, we have also increased the number of U.S. Customs and Border Protection (CBP) officers ensuring the secure flow of people and goods into our nation from 17,279 customs and immigration inspectors in 2003 to more than 21,000 officers and 2,300 agriculture specialists today. CBP has deployed proven, effective technology to the border tailored to the operational needs of our agents on the ground. We have expanded our unmanned aerial surveillance capabilities and strengthened our air and marine interdiction capabilities. These efforts have contributed to a border that is more secure today than at any point in our nation's history.

At ports of entry in FY 2012, CBP officers (CBPOs) arrested 7,700 people wanted for serious crimes, including murder, rape, assault and robbery. CBPOs also stopped nearly 145,000 inadmissible aliens from entering the U.S. through ports of entry. As a result of the efforts of the CBP National Targeting Center and Immigration Advisory Program, 4,199 high risk travelers, who would have been found inadmissible, were prevented from boarding flights destined for the U.S., an increase of 32 percent compared to FY 2011.

We see increasing success in our seizures as well. From Fiscal Years 2009 to 2012, DHS seized 71 percent more currency, 39 percent more drugs, and 189 percent more weapons along the Southwest border as compared to FYs 2006 to 2008. Nationwide, in Fiscal Year 2012, CBP officers and Border Patrol agents seized more than 4.2 million pounds of narcotics and more than \$100 million in unreported currency through targeted enforcement operations.

The CBP P-3 aircraft have been instrumental in reducing the flow of contraband from reaching the United States by detecting the suspect aircraft and vessels while still thousands of miles away from America's border. In FY 2012, P-3 crews were involved in the interdiction of 117,103 pounds of cocaine and 12,745 pounds of marijuana. The CBP P-3 aircraft and crew provide an added layer of security by stopping criminal activity before reaching our borders.

CBP is also looking to the future by working closely with the DHS Science & Technology (S&T) Directorate to identify and develop technology to improve our surveillance and detection capabilities in our ports and along our maritime and land borders. This includes investments in tunnel detection and tunnel activity monitoring technology, low-flying aircraft detection and tracking systems, maritime data integration/data fusion capabilities, cargo supply chain security, and unattended ground sensors/tripwires.

The “Border Security, Economic Opportunity, and Immigration Modernization Act” includes important reforms that will help us to continue to strengthen security at our borders and should contribute to our immigration laws better meeting the needs of law enforcement, businesses, immigrants, communities, and our economy. In particular, if enacted, it includes funding for the Department to continue deployment of proven, effective surveillance technology along the highest trafficked areas of the Southwest border. Funds are anticipated to be used to procure and deploy technology tailored to the operational requirements of the Border Patrol, the distinct terrain, and the population density within each sector. The bill authorizes appropriations for 3,500 additional CBP officers at our ports of entry which would increase efficiency and decrease wait times for legitimate trade and travel as well as increase security. These provisions would sustain and build on our progress and promote a border region that continues to be safe and thriving.

Over the past decade, U.S. Immigration and Customs Enforcement (ICE) has made tremendous strides and realized considerable enforcement achievements. In just the last three years, ICE Homeland Security Investigations (HSI) has achieved a record number of criminal arrests, which culminated with fiscal year (FY) 2012 increases of nearly 25 percent over FY 2010. These record arrests in FY 2011 and FY 2012 followed from successful investigations of commercial fraud, child exploitation, strategic/counter-proliferation, human trafficking, and financial crimes.

In FY 2012, ICE’s Office of the Principal Legal Advisor (OPLA) staffed 44 Special Assistant U.S. Attorney (SAUSA) positions, which resulted in 5,137 convictions in federal court. The SAUSA’s assist U.S. Attorneys with increased caseloads that result from ICE’s increased enforcement, and serve as critical force multipliers. ICE implemented the SAUSA initiative to increase litigation of immigration and customs-related criminal cases in federal courts.

With respect to matters involving employee misconduct, ICE and CBP entered into a Memorandum of Understanding (MOU) in 2010 that ensures the integrity of DHS employees remains critical to fulfilling the DHS mission. ICE and CBP have established a program whereby CBP Office of Internal Affairs investigators are assigned to ICE Office of Professional Responsibility (OPR) field offices to participate in the investigations of CBP employee criminal misconduct, thus enabling CBP management to make informed decisions when considering alternative administrative remedies. This collaboration was not always available prior to the MOU, and has solidified ICE’s commitment to providing CBP with complete and timely awareness and involvement in criminal investigations of CBP employees.

Last year, ICE developed the Illicit Pathways Attack Strategy (IPAS). IPAS supports the Administration’s Strategy to Combat Transnational Organized Crime, an initiative launched in July 2011, which seeks to integrate federal resources in order to combat transnational organized crime and related threats to national security and public safety while urging foreign partners to do the same.

As a key partner in this effort, IPAS is working to identify and dismantle high risk smuggling and trafficking routes, pathways, and integrated networks that support Transnational Organized Crime. IPAS initially focused on combating human smuggling. Future iterations of the strategy

will focus on weapons trafficking, human trafficking, intellectual property theft, cybercrime, illicit finance, and counter-proliferation. IPAS is a coordinated strategy to identify illicit pathways and attack criminal networks at multiple locations along the illicit travel continuum. The concept involves attacking criminal networks within and beyond our borders; prioritizing networks and pathways that pose the greatest threats; participating in and facilitating robust interagency engagement; and pursuing a coordinated, regional approach that leverages international partners.

IPAS combines traditional law enforcement investigations and prosecutions with efforts to overtly disrupt and deter the underlying criminal activity. Experience has shown that if we simply try to disrupt criminal activity by focusing law enforcement action in one geographic area, criminal organizations will quickly adapt and shift to an area where detection or interdiction by law enforcement is less likely. HSI's goal is to not only stop individual criminals, but also to stop or reduce the criminal activity and dismantle the entire criminal enterprise.

The Transfer Exit Program (ATEP) is a joint effort between ICE and CBP that allows for the transportation of aliens out of an apprehending Southwest Border Patrol Sector for subsequent removal to Mexico through another Southwest Sector. The program is designed to deny, disrupt and dismantle the ability of alien smuggling organizations operating in the participating sectors. ATEP targets frequent recidivist illegal entrants, and other illegal aliens apprehended by CBP within the Laredo, Rio Grande Valley, and Tucson sectors.

On April 18, 2013, DHS signed an agreement with the Government of Mexico that created the framework for the Interior Repatriation Initiative (IRI). This initiative is designed to reduce recidivism and border violence by returning Mexican nationals to their cities of origin, where there is a higher likelihood that they will reintegrate themselves back into their communities, rather than fall victim to human trafficking or other crimes in Mexican border towns.

#### **Building a Better Exit System to Enhance Overstay Tracking and Compliance**

The bill also includes provisions designed to enhance the Department's ability to track visa overstays by collecting data for foreign nationals departing the United States, often referred to as "exit data", to allow the Department to match entry and exit records and identify those who have remained in the United States longer than they should. During the past two years, DHS has enhanced its exit system, which now tracks and identifies, on a near real-time basis, those who may have overstayed their authorized period of admission, and targets for enforcement those who represent a public safety and/or national security threat.

In 2010, at the direction of Secretary Napolitano, DHS launched an initiative to enhance its existing biographic exit system. In part by using the data DHS receives, this *Enhanced Exit Initiative* has been able to address longstanding issues through innovative solutions, including cooperation with foreign countries and with the air travel industry. DHS now has a biographic-based electronic exit program, known as the Advance Passenger Information System (APIS) at air and sea ports-of-entry, where carriers are required to provide departing aircraft or vessel passenger data to DHS.

In April 2013, DHS deployed a series of enhancements with contribution from many DHS components, including CBP, Immigration and Customs Enforcement (ICE), the Office of Biometric Identity Management (OBIM), and U.S. Citizenship and Immigration Services (USCIS), in order to improve its exit-entry system by linking several systems with relevant records more effectively; and enhancing entry/exit matching capability through improved data algorithms. DHS is also testing a program that will require air travelers to present the same documents on departure that they used to enter the United States. Currently, DHS experiences “mismatches” between entry and exit records when a person uses a different travel document upon departure than the person used at the time of admission. This program, together with additional system enhancements to be deployed in late 2013, will dramatically improve our ability to successfully match entry and exit records and will strengthen our ability to identify and target for enforcement action overstays who represent a public safety and/or national security threat. It is intended to allow DHS to more effectively take action, in accordance with existing federal laws, against overstays, including a traveler’s next interaction at ports of entry, through the Electronic System for Travel Authorization (ESTA) program for Visa Waiver Program (VWP) travel. We will also have more information to share with our partners at the State Department to ensure that visas are not issued for those violators who are no longer eligible to travel to the United States. These efforts will also enable DHS to more reliably determine overstay rates for each country.

DHS continues to pursue research and development into a biometric air and sea exit program and is currently examining new technologies that would enable deployment when feasible in a cost-efficient manner that better facilitates safe, legitimate trade and travel.

### **Conclusion**

During the past four years, DHS has worked hard to meet our immigration responsibilities in a smart and efficient manner. The results we see today reflect the most serious and sustained effort to strengthen border security and enforce immigration laws that the Nation has seen in decades. Our men and women on the frontlines, in the interior, and overseas deserve a great deal of credit for this success

Today our borders are more secure and our border communities are among the safest communities in our country. We have removed record numbers of criminals from the United States, and our immigration laws are being enforced according to sensible priorities. We have taken numerous steps to strengthen legal immigration and build greater integrity into the system. And we are using our resources in a smart, effective, responsible manner. We have matched words with action, and now is the time to take the next step and fundamentally reform the nation’s immigration system to reflect the realities of the 21<sup>st</sup> century.

We must not miss this opportunity to enact meaningful reforms to not only strengthen our immigration system but also to ensure that our nation remains a land of opportunity for immigrants, businesses, and all those whose dreams, aspirations, hard work, and success have contributed to our nation’s uniqueness, diversity, cultural richness, and economic strength since our founding. The time to modernize our immigration laws is long overdue, and we stand ready to work with the Congress to achieve this important goal for our country, the American people, and all those seeking to contribute their talents and energy to our great nation.



We are very encouraged by the progress that has been made thus far in developing the “Border Security, Economic Opportunity, and Immigration Modernization Act.” The introduction of this legislation is a true milestone, and we look forward to working with you to build on this momentum. Thank you, again, for the attention you are giving to this critical issue.

**STATEMENT OF ANNE L. RICHARDS**  
**ASSISTANT INSPECTOR GENERAL FOR AUDITS**  
**DEPARTMENT OF HOMELAND SECURITY**  
*BEFORE THE*  
**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS**  
**U.S. SENATE**  
*CONCERNING*  
**BORDER SECURITY: EXAMINING PROVISIONS IN THE BORDER SECURITY,  
ECONOMIC OPPORTUNITY, AND IMMIGRATION MODERNIZATION ACT (S. 744)**

**MAY 7, 2013**



Good morning Chairman Carper, Ranking Member Coburn, and Members of the Committee. Thank you for inviting me here today to discuss the enforcement provisions of the *Border Security, Economic Opportunity, and Immigration Modernization Act* and some of our reviews of the Department of Homeland Security's (DHS) border security programs.

In your invitation to testify, you asked that we focus on the Office of Inspector General's (OIG) work evaluating DHS border security programs and what steps we believe DHS will need to take to ensure that the metrics required by the Act are verifiable and enforceable. We used a broad interpretation of the question and included in our preparation audit and inspection work that we have conducted looking at border security and immigration issues as well as reviews of DHS management programs that support those efforts.

In the last 10 years, DHS has made progress in coalescing as one Department and in addressing its fundamental missions, including the missions of securing our borders and implementing sound controls, policies, and procedures over immigration programs. However, numerous challenges remain. Among the challenges in implementing this proposed legislation, DHS must develop a thoughtful process to assess the ongoing needs and gaps across its programs and operations as well as a comprehensive strategy to address vulnerabilities. This will require both time and resources to achieve, but ultimately, the Department should have the ability to overcome these challenges.

In my testimony today, I will highlight some overarching issues identified in our audits and inspections that the Department will need to address to achieve the goals and standards established in the proposed legislation—specifically, data reliability, planning, and systems modernization.

#### **Data Reliability**

In order to evaluate performance against the metrics in the proposed legislation or complete certain steps in the legislation, the Department needs complete, accurate, and up-to-date information. Several of our audits and inspections have identified instances of incomplete, inaccurate, and out-of-date data in many of the Department's programs and systems. We have also identified instances in which data is not always available to the Department from other entities, such as other Federal agencies and foreign governments. The Department and its components are working to address these issues, which will help them establish the necessary baselines to measure future achievements.

The following reports illustrate some of the challenges we identified related to the quality of the Department's data.

#### **Supervision of Aliens**

In December 2011, we issued *Supervision of Aliens Commensurate with Risk*, OIG-11-81, with the objective to assess the effectiveness of U.S. Immigration and Customs Enforcement's (ICE) process for deciding whether to detain aliens in an ICE facility or place them in supervised release. ICE generally had an effective decision making process for determining whether to detain or release aliens. In most of the cases we assessed, officers made reasonable decisions

and complied with the requirements of the *Immigration and Nationality Act*, Supreme Court decisions, and prescribed policies and procedures. However, personnel could not always provide evidence that all aliens were screened against the Terrorist Watchlist; current policy for screening aliens from specially designated countries was not effective; and personnel did not always maintain accurate and up-to-date information in the case management system.

We noted that the component had taken actions to correct deficiencies in its data quality, and we recommended that ICE enforce the requirement to screen aliens against the Terrorist Watchlist, improve its policies and procedures for screening aliens from specially designated countries, and update information in its case management system.

#### Secure Communities

In March 2012, we issued *Operations of United States Immigration and Customs Enforcement's Secure Communities*, OIG-12-64. In 2008, ICE implemented Secure Communities to enhance its ability to identify criminal aliens nationwide. The key component of Secure Communities is automated information sharing between DHS and the Federal Bureau of Investigation. Since 2008, ICE has spent about \$750 million on Secure Communities and identified more than 692,000 criminal aliens.

We performed this audit to determine whether Secure Communities was effective in identifying criminal aliens and if ICE appropriately prioritized cases for removal action. Secure Communities was effective in identifying criminal aliens, and in most cases, ICE officers took enforcement actions according to agency enforcement policy. Under Secure Communities, the agency expanded its ability to identify criminal aliens in areas not covered by its other programs. In addition, it was able to identify criminal aliens earlier in the justice process, some of whom it would not have identified under other programs.

Secure Communities was implemented at little or no additional cost to local law enforcement jurisdictions. Although ICE was able to identify and detain criminal aliens, field offices duplicated the research associated with their detention, and officers did not always sufficiently document their enforcement actions. To improve the transparency and thoroughness of its processes under Secure Communities, the agency needs to eliminate the duplication of research and ensure that officers fully document their actions. We made two recommendations to improve the agency's overall management of Secure Communities.

#### Systematic Alien Verification for Entitlements Program

Our report, *Improvements Needed for SAVE To Accurately Determine Immigration Status of Individuals Ordered Deported*, OIG-13-11, was re-issued in December 2012 based on comments received from U.S. Citizenship and Immigration Services (USCIS) after the comment period. We determined that the Systematic Alien Verification for Entitlements (SAVE) program provided information to benefit-granting agencies that was sometimes outdated and erroneous about an individual's immigration status. This occurred because status codes in the Central Index System, the primary system SAVE uses to validate an individual's immigrant status, was not immediately updated when the Immigration Court ordered an individual deported, removed, or

excluded. Instead, the codes were updated when the individual physically left the United States, which can take years. This problem could potentially affect the more than 800,000 individuals who have been ordered deported, removed, and excluded but who are still in the United States. Although the SAVE response, in and of itself, did not automatically result in approval of financial or other benefits, an erroneous response could result in agencies granting benefits to unentitled individuals.

Our random statistical sample of individuals ordered deported but who remained in the United States identified a 12 percent error rate in immigration status verification. These individuals had no status, but were erroneously identified as having lawful immigration status. The remaining 88 percent had lawful immigration status at the time of their status verification. Benefits for which individuals were verified ranged from airport badges and Transportation Worker Identification Cards, which provide individuals with access to secure areas, food stamps, driver's licenses, and education assistance. Some individuals included in our sample had committed felonies ranging from citizenship fraud to aggravated assault.

#### Free and Secure Trade Program

In the report, *Free and Secure Trade Program – Continued Driver Eligibility*, OIG-12-84, which we issued in May 2012, we reviewed the Free and Secure Trade (FAST) program to determine whether its continued eligibility processes ensure that only eligible drivers remain in the program. The U.S. Customs and Border Protection's (CBP's) FAST program is a border accord initiative among the United States, Canada, and Mexico designed to ensure the security and safety of interborder commerce while enhancing the economic prosperity of each country. Under the program, participants who meet certain eligibility criteria are considered low risk and receive expedited border processing. This enables CBP to redirect security efforts and inspections to commerce that is high or unknown risk while ensuring the movement of legitimate, low-risk commerce.

The FAST program's continued eligibility processes do not ensure that only eligible drivers remain in the program. CBP is hampered in its ability to ensure that Mexican citizens and residents in the program are low risk because Mexico does not share information with the United States to vet and continuously monitor drivers' eligibility.

Also, although CBP has a continuous vetting process, some ineligible drivers may be actively enrolled in the program.

In addition, CBP has not implemented a process to assess the program's effect on border security risk. Without a robust risk assessment process, CBP cannot be sure of the program's effect on border security risk at land ports of entry and whether current control measures compensate for any additional risk resulting from its benefits to participants. CBP should determine whether FAST participation has increased or decreased border security risk at land ports of entry and, if needed, establish control measures to mitigate any additional risk.

We made three recommendations intended to improve CBP's processes to ensure continued driver eligibility in the FAST program.

### Planning

To fully accomplish both the specific requirements of the Act and its overall intent, the Department will need to do a skillful job in determining requirements, identifying the resources needed to achieve those requirements, and preparing its personnel to conduct those activities. For example, the bill requires 24/7 monitoring of the border by unmanned aerial systems. The Department will need to establish the operating requirements to achieve that goal, including knowing the number of aerial vehicles, pilots, ground support, maintenance, fuel, and repair parts that will be needed, where those resources will be needed, and the lifecycle cost of these operations. The Department has directives and policies in place to accomplish this, but has not yet done so for unmanned aerial systems. In addition to fielding new or improved technology and programs, the Department will need to establish a robust training plan to ensure that it has sufficient trained personnel on hand to implement the provisions of the legislation. Our audits and inspections have identified challenges with planning for resource acquisition and allocation and with training personnel, which may impact its ability to achieve the specifics of the proposed legislation.

We identified planning and training challenges in the following reports.

#### Unmanned Aircraft Systems

In May 2012, we issued *CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security*, OIG-12-85. CBP's Office of Air and Marine (OAM) is responsible for protecting the American people and the Nation's critical infrastructure through the coordinated use of integrated air and marine forces. Air and marine forces are used to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illegal drugs, and other contraband toward or across U.S. borders. Unmanned Aircraft Systems (UAS) provide command, control, communication, intelligence, surveillance, and reconnaissance capability to complement crewed aircraft and watercraft, and ground interdiction agents.

After the pilot of the UAS program, Congress appropriated more than \$240 million to establish the program within CBP. During our 2012 audit, CBP stated it had expended \$152.3 million to purchase nine unmanned aircraft and related equipment and, at that time, had seven operational aircraft. After our audit, in late 2011, CBP received two additional aircraft and was awaiting delivery of a tenth aircraft purchased with FY 2011 funds. Each aircraft system cost approximately \$18 million.

We reported that CBP had not adequately planned resources needed to support its current unmanned aircraft inventory. CBP's planning did not adequately address processes (1) to ensure that required operational equipment, such as ground control stations and ground support equipment, was provided for each launch and recovery site; (2) for stakeholders to submit unmanned aircraft mission requests; (3) to determine how mission requests would be prioritized; and (4) to obtain reimbursements for missions flown on stakeholders' behalf. With this approach, CBP risked having invested substantial resources in a program that underutilized resources and limited its ability to achieve OAM mission goals.

### Interoperable Radio Communications

DHS includes a network of organizations that work together to prevent and respond to terrorist attacks, natural disasters, and other threats. Such collaboration requires that DHS components establish effective communication among external and internal partners during operations. DHS established an internal goal of developing interoperable radio communications and identified common channels. To meet communications requirements, DHS components invested about \$430 million in equipment, infrastructure, and maintenance. Although DHS created policies, guidance, and templates to aid in achieving interoperability and provided more than \$18 million in assistance to State and local agencies, full interoperability remains a distant goal, according to a 2012 Government Accountability Office report.<sup>1</sup>

In our November 2012 report, *DHS' Oversight of Interoperable Communications*, OIG-13-16, we noted that, although DHS had established a goal for interoperability and common radio channels, only 1 of 479 radio users we reviewed could access and communicate using the specified channel. Furthermore, only 78 of 382 or 20 percent of radios we tested contained all the correct program settings, including the name, for the common DHS channel. Additionally, DHS did not establish an effective governing structure with authority and responsibility to oversee achievement of department-wide interoperability. Without an authoritative governing structure to oversee emergency communications, DHS had limited interoperability policies and procedures, and the components did not inform radio users of DHS-developed guidance. Because of this limited progress in interoperability, personnel could not rely on interoperable communications during daily operations, planned events, and emergencies.

We made two recommendations to improve DHS' oversight of interoperable communications.

### Purchase and Storage of Steel for the Secure Border Initiative

In our report, *U.S. Customs and Border Protection's Management of the Purchase and Storage of Steel in Support of the Secure Border Initiative*, OIG-12-05, we determined that CBP did not effectively manage the purchase and storage of steel in support of the Secure Border Initiative. Since 2008, CBP spent approximately \$1.2 billion to construct physical barriers along the southwest border as part of this initiative. About \$310 million of the cost was to purchase and store steel in support of fence construction. CBP purchased steel based on an estimate before legally acquiring land or meeting international treaty obligations. In addition, it did not provide effective contract oversight during the project: it paid invoices late, did not reconcile invoices with receiving documents, and did not perform a thorough review of the contractor's selection of a higher-priced subcontractor or document the reasons for its approval of the subcontractor. As a result, CBP purchased more steel than needed, incurred additional storage costs, paid interest on late payments, and approved a higher-priced subcontractor, with additional expenditures of about \$69 million that could have been put to better use.

CBP did not efficiently plan the purchase and storage of steel for the Supply and Supply Chain Management (SSCM) task order. It purchased 27,557 tons of extra steel, with a value of about \$44 million, which remained in storage at the end of the task order. Additionally, CBP did not

<sup>1</sup> *Emergency Communications-Variations Challenges Likely to Slow Implementation of a Public Safety Broadband Network* (GAO-12-343, February 2012).

obtain necessary approval to build all planned fence segments before acquiring the steel. In September 2009, CBP purchased 34 tons of steel for \$23,000, even though it had significant quantities of the same steel already in storage. CBP was not proactive and did not efficiently plan for the storage of steel remaining from the task order. Instead of moving the extra steel to a cost-efficient location, CBP extended the original contract and awarded a supplemental storage contract. CBP's decision to extend the storage contracts for 2 years resulted in \$9.8 million in avoidable storage costs.

CBP did not reconcile or promptly pay invoices from the SSCM task order. The cost of the task order increased because CBP paid invoices late, which resulted in late payment interest charges. Furthermore, CBP could not guarantee the government received what it paid for under the task order. CBP did not have policies and procedures for submitting and reviewing invoices. There was no clear guidance on the proper office to route invoices to, no timeline for the review process, and no notification process to remind offices of invoices coming due.

CBP did not perform a thorough review of the consent to subcontract documentation and did not document the reasons for its approval of the higher-price subcontractor. Its approval of a subcontractor may have added about \$13.5 million to the project. The DHS Office of the Chief Procurement Officer recognized the importance of component oversight of subcontractor selection and issued an acquisition alert in April 2011 to DHS heads of contracting activities.

We noted that CBP should ensure it applied lessons learned from this project to future projects. To that end, we made five recommendations to improve CBP's management of future fence construction and contract oversight.

#### Adjudication of Nonimmigrant Worker Petitions for Visas

Our report, *The U.S. Citizenship and Immigration Services' Adjudication of Petitions for Nonimmigrant Workers (I-129 Petitions for H-1B and H-2B Visas)*, OIG-11-105, was issued in August 2011. As a result of our review, we determined that the Immigration Services Officer (ISO) fraud training for adjudicating the H-1B and H-2B visa classifications of I-129 petitions was decentralized and inconsistent. Although USCIS had a process to train newly hired ISOs, on-the-job training procedures varied. Experienced ISOs did not all receive the same type of fraud training, and ongoing fraud training was not updated and provided annually. This occurred because USCIS Headquarters had not implemented a national, ongoing fraud identification and response training program that included standards for annual training and updates. Without a consistent fraud identification training program, USCIS could ensure that fraudulent petitions for H-1B and H-2B visas were consistently identified.

All newly hired ISOs complete the same basic 6-week ISO course before being assigned to a service center. However, local on-the-job training procedures vary. In 2006, both service centers provided I-129 H and L Fraud Training, which discusses the process to adjudicate Form I-129 H and L visa classifications and related fraud cases. However, this training was not provided to all ISOs responsible for adjudicating H-1B and H-2B petitions. Fraud prevention training beyond the H and L courses differed between the two service centers. We made two recommendations to improve the program.



#### Delegation of Federal Immigration Enforcement Authorities

*The Performance of 287(g) Agreements - FY 2011 Update*, OIG -11-119, issued in September 2011, examined Section 287(g) of the *Immigration and Nationality Act*, as amended, which authorizes ICE to delegate Federal immigration enforcement authorities (functions) to State and local law enforcement agencies. The *Department of Homeland Security Appropriations Act, 2010*, requires, and House Report 111-157 and Conference Report 111-298 direct, that we report on the performance of 287(g) agreements with State and local authorities. ICE had improved in some areas of program operations. However, for other important areas, ICE's action plans and related documentation did not address all critical issues we identified in our prior reports. We determined that ICE needed to continue its efforts to implement our prior recommendations. In addition, we identified challenges that might reduce the effectiveness of a review process intended as a resource for ensuring compliance with 287(g) program requirements. ICE needed to (1) provide training for inspectors to ensure that they have sufficient knowledge of the 287(g) program, Memorandums of Agreement with State and local law enforcement agencies, as well as other skills needed to conduct effective inspection reviews; (2) develop and implement comprehensive analytical tools for use as part of the inspection review process; and (3) review and revise Memorandums of Agreement with participating law enforcement agencies to ensure a clear understanding of 287(g) program requirements. We made 13 recommendations to improve overall 287(g) program operations. We looked at the 287(g) program again in FY 2012.

#### **Systems Modernization**

To implement the provisions of the proposed legislation, the Department will need to address some longstanding business and Information Technology (IT) systems challenges and continue to pursue additional technologies to address border security issues. Although the Department is taking steps to upgrade and integrate its IT and business systems, including those related to immigration, it has not yet succeeded in fully transforming them. In addition, DHS needs to seek out and adopt new technologies that will take into account the needs of various components and enhance its ability to secure our borders.

#### Modernizing Information Technology

A report issued in November 2006, *U.S. Citizenship and Immigration Services' Progress in Modernizing Information Technology*, OIG-07-11, included the results of a review of USCIS' efforts to improve its processes and systems. The objectives of the review were to assess USCIS' progress in implementing IT modernization initiatives and examine how it had addressed our prior recommendations.

Although USCIS had taken steps to address the recommendations in our prior report, several challenges continued. Specifically, USCIS faced challenges in finalizing its approach and advancing to business transformation implementation. The component had accomplished the first phase of its IT staffing integration effort; however, remaining phases remained on hold until it addressed organizational deficiencies that hindered day-to-day IT operations. USCIS made progress in applying IT to support mission business operations, but improved strategic planning by the Office of the Chief Information Officer could help in managing IT resources. Process engineering was

contingent on implementing a “to-be” transaction-based environment and a supporting acquisition approach. Although USCIS made significant progress in IT infrastructure upgrades, plans to complete remaining sites were on hold pending funding approval. USCIS had outlined strategies to increase stakeholder involvement in transformation planning to promote buy-in and minimize risks that redesigned processes and systems might not meet user needs.

#### Business and IT Transformation

In a November 2011 report, *U.S. Citizenship and Immigration Services' Progress in Transformation*, OIG-12-12, we noted that in 2005, USCIS embarked on an enterprise-wide program to transform its fragmented, paper-based business processes to a flexible and efficient process supported by an integrated technical environment. In July 2009, we reported that USCIS had established a structure to manage transformation initiatives and implemented pilot programs; however, pilot success was restricted by ineffective planning, business process reengineering efforts were incomplete, and stakeholder participation levels fluctuated. We recommended that USCIS communicate an updated transformation approach, include stakeholder participation in defining requirements, and assess pilot program results.

We conducted a follow-up audit to determine USCIS' progress in implementing its business and IT transformation. Since the 2009 report, USCIS had completed a number of activities to prepare for its first transformation deployment and improved its coordination and communication with stakeholders. However, implementation of the transformation program had been delayed because of changes in the deployment strategy and insufficiently defined system requirements. Other challenges, such as governance and staffing problems, further delayed the program. As a result, USCIS continued to rely on paper-based processes to support its mission, which made it difficult to process immigration benefits efficiently, combat identity fraud, and provide other Government agencies with the information required to identify criminals and possible terrorists quickly.

USCIS took steps to address these challenges by moving to a more agile transformation approach, improving its program monitoring and governance, and focusing on staffing issues. We recommended that USCIS ensure that process documentation provided sufficient detail, develop and implement a governance structure to enable streamlined decisionmaking, and ensure that staff with the necessary skills were in place.

#### Illicit Cross-Border Tunnels

In our report, *CBP's Strategy to Address Illicit Cross-Border Tunnels*, OIG 12-132, which was issued in September 2012, we noted that illicit cross-border tunnels along the southwest border of the United States are a significant and growing threat to border security. Criminals primarily use the tunnels to transport illegal narcotics into the United States, but also use them to smuggle contraband, currency, and weapons. Since 1990, law enforcement officials have discovered more than 140 tunnels that have breached the U.S. border, with an 80 percent increase in tunnel activity since 2008. The increase in the number of tunnels over the past 4 years may be attributed to border fencing and an increased number of Border Patrol Agents.

We performed this audit to determine whether CBP developed an operational strategy to detect and remediate cross-border tunnels and acquire tunnel detection technology. As part of its overall border security and law enforcement missions, CBP detects and remediates cross-border tunnels. It has modified its field operations to better detect and respond to the threats posed by the tunnels. However, CBP does not have the technological capability to detect illicit cross-border tunnels routinely and accurately. Until CBP has this capability, criminals may continue to build cross-border tunnels undetected. CBP has stated that it can best address this capability gap through the development and acquisition of detection technology. However, CBP has not been able to identify any existing tunnel detection technology that functions effectively in its operating environment.

CBP is creating a program to address capability gaps in countering the cross-border tunnel threat. As part of this effort, CBP is drafting the documents required by the *DHS Acquisition Instruction/Guidebook 102-01-001* to develop and acquire tunnel detection technology. Additionally, CBP plans to establish a Program Management Office to provide leadership, strategy, and organization to the Department-wide counter-tunnel efforts. The program must address the mission needs of both CBP and Homeland Security Investigations (HSI) in Immigration and Customs Enforcement (ICE) because both have mission responsibility to combat cross-border tunnels. However, the program has not matured to a point where it demonstrates how it will consider the needs of HSI. The Department has ultimate responsibility for approving CBP's acquisition program, as well as allocating resources and making decisions to counter the tunnel threat. A DHS-designated authority is needed to make strategic decisions on counter-tunnel policies and procedures.

We made two recommendations to CBP to improve consideration of the needs of both CBP and HSI. We also made two recommendations to the Department to improve coordination and oversight of CBP and HSI counter-tunnel efforts.

### Conclusion

Through our audits and reviews, we have identified a number of challenges that DHS must overcome to secure our borders and establish effective immigration policies and processes. Some of these challenges are a result of differing legacy systems and programs that need to be integrated and coordinated among the components and with stakeholders outside of the Department. Other challenges are related to inadequate strategic planning, a dearth of performance measures, and data and information that cannot be relied on to make sound decisions.

It is important to note that, based on the Department's response to our numerous reports, it is clear that it is diligently working to address these issues. However, it takes time to develop strategic plans, improve information systems, revise and update guidance, implement and disseminate new policies and procedures, and correct the underlying data. This can be particularly time-consuming when, as is usually the case, such plans, policies, and procedures require coordination and concurrence among multiple entities, including some outside of DHS and its components. Competing and changing priorities and funding uncertainties also affect the Department's ability to address these issues.

Mr. Chairman, this concludes my prepared remarks. I welcome any questions that you or the Members of the Committee may have.

Appendix A: DHS OIG-issued reports on Border Security and Immigration, FY  
2005-FY 2013

	Final Report Number	Report Title	Report Link
1	OIG-04-18	Open Inspector General Recommendations Concerning the Former Immigration and Naturalization Service from Unaccompanied Juveniles in INS Custody, A Report by the Department of Justice Inspector General	<a href="http://www.oig.dhs.gov/assets/OIG_Juvenile.pdf">http://www.oig.dhs.gov/assets/OIG_Juvenile.pdf</a>
2	OIG-04-26	An Evaluation of the Security Implications of the Visa Waiver Program	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_SecurityImpVisaWaiverProgEval_Apr04.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_SecurityImpVisaWaiverProgEval_Apr04.pdf</a>
3	OIG-04-33	An Evaluation of DHS Activities to Implement Section 428 of the Homeland Security Act of 2002	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_04-33_Aug04.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_04-33_Aug04.pdf</a>
4	OIG-05-07	A Review of the Use of Stolen Passports from Visa Waiver Countries to Enter the United States	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_05-07_Dec04.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_05-07_Dec04.pdf</a>
5	OIG-05-11	Implementation of the United States Visitor and Immigrant Status Indicator Technology Program at Land Border Ports of Entry	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_05-11_Feb05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_05-11_Feb05.pdf</a>
6	OIG-05-24	Letter Report: Immigration Enforcement Agent Position	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_05-24_Jun05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_05-24_Jun05.pdf</a>
7	OIG-05-25	Letter Report: Citizenship Test Redesign	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_05-25_Jun05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_05-25_Jun05.pdf</a>
8	OIG-05-28	Improvements Needed in Security Management of the United States Citizenship and Immigration Services' CLAIMS 3 Mainframe Financial Application	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_05-28_Jul05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_05-28_Jul05.pdf</a>
9	OIG-05-41	USCIS Faces Challenges in Modernizing Information Technology	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_05-41_Sep05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_05-41_Sep05.pdf</a>
10	OIG-05-45	A Review of DHS' Responsibilities For Juvenile Aliens	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_05-45_Sep05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_05-45_Sep05.pdf</a>
11	OIG-05-49	USCIS Approval of H-1B Petitions Exceeded 65,000 Cap in Fiscal Year 2005	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_05-49_Sep05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_05-49_Sep05.pdf</a>

Appendix A: DHS OIG-issued reports on Border Security and Immigration, FY  
2005-FY 2013

	<b>Final Report Number</b>	<b>Report Title</b>	<b>Report Link</b>
12	OIG-05-50	Review of the Immigration and Customs Enforcement's Compliance Enforcement Unit	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_05-50_Sep05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_05-50_Sep05.pdf</a>
13	OIG-06-04	An Assessment of the Proposal to Merge Customs and Border Protection with Immigration and Customs Enforcement	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_06-04_Nov05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_06-04_Nov05.pdf</a>
14	OIG-06-06	A Review of U.S. Citizenship and Immigration Services Alien Security Checks	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_06-06_Nov05.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_06-06_Nov05.pdf</a>
15	OIG-06-22	Review of Vulnerabilities and Potential Abuses of the L-1 Visa Program	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_06-22_Jan06.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_06-22_Jan06.pdf</a>
16	OIG-06-33	Detention and Removal of Illegal Aliens U.S. Immigration and Customs Enforcement (ICE)	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_06-33_Apr06.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_06-33_Apr06.pdf</a>
17	OIG-06-43	Review of CBP Actions Taken to Intercept Suspected Terrorists at U.S. Ports of Entry	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG-06-43_June06.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG-06-43_June06.pdf</a>
18	OIG-07-01	Treatment of Immigration Detainees Housed at Immigration and Customs Enforcement Facilities	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_07-01_Dec06.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_07-01_Dec06.pdf</a>
19	OIG-07-08	Review of U.S. Immigration and Customs Enforcement's Detainee Tracking Process	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_07-08_Nov06.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_07-08_Nov06.pdf</a>
20	OIG-07-11	U.S. Citizenship and Immigration Services' Progress in Modernizing Information Technology	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_07-11_Nov06.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_07-11_Nov06.pdf</a>
21	OIG-07-28	ICE's Compliance With Detention Limits for Aliens With a Final Order of Removal From the United States	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_07-28_Feb07.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_07-28_Feb07.pdf</a>
22	OIG-07-34	An Assessment of United States Immigration and Customs Enforcement's Fugitive Operations Teams	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_07-34_Mar07.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_07-34_Mar07.pdf</a>
23	OIG-07-38	DHS' Progress In Addressing Coordination Challenges Between Customs and Border Protection and Immigration and Customs Enforcement	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_07-38_Apr07.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_07-38_Apr07.pdf</a>

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	<b>Final Report Number</b>	<b>Report Title</b>	<b>Report Link</b>
24	OIG-07-40	A Review of CBP and ICE Responses to Recent Incidents of Chinese Human Smuggling in Maritime Cargo Containers (Redacted)	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_07-40_Apr07.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_07-40_Apr07.pdf</a>
25	OIG-08-09	Review of the USCIS Benefit Fraud Referral Process (Redacted – Revised)	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIGr_08-09_Apr08.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIGr_08-09_Apr08.pdf</a>
26	OIG-08-18	The Removal of a Canadian Citizen to Syria	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIGr_08-18_Jun08.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIGr_08-18_Jun08.pdf</a>
27	OIG-09-37	Management Oversight of Immigration benefit Application Intake Processes	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_09-37_Mar09.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_09-37_Mar09.pdf</a>
28	OIG-10-22	Release of the U.S. Immigration and Customs Enforcement's Worksite Enforcement Strategy	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_10-22_Dec09.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_10-22_Dec09.pdf</a>
29	OIG-10-96	Controls Over SBInet Cost and Schedule Could Be Improved	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_10-96_Jun10.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_10-96_Jun10.pdf</a>
30	OIG-11-14	Processing of Nonimmigrant Worker Petitions in Support of the Guam Realignment Construction Activities	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-14_Nov10.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-14_Nov10.pdf</a>
31	OIG-11-16	Customs and Border Protection's Implementation of the Western Hemisphere Travel Initiative at Land Ports of Entry	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-16_Nov10.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-16_Nov10.pdf</a>
32	OIG-11-25	Improvements Needed in the Process to Certify Carriers for the Free and Secure Trade Program	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-25_Mar11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-25_Mar11.pdf</a>
33	OIG-11-43	Customs and Border Protection Needs to Improve Its Inspection Procedures for the Western Hemisphere Travel Initiative	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-43_Feb11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-43_Feb11.pdf</a>
34	OIG-11-62	Management of Mental Health Cases in Immigration Detention	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-62_Mar11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-62_Mar11.pdf</a>
35	OIG-11-81	Supervision of Aliens Commensurate with Risk	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-81_Dec11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-81_Dec11.pdf</a>

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	<b>Final Report Number</b>	<b>Report Title</b>	<b>Report Link</b>
36	OIG-11-85	U.S. Citizenship and Immigration Services Privacy Stewardship	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-85_May11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-85_May11.pdf</a>
37	OIG-11-100	DHS Detainee Removals and Reliance on Assurances	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-100_Nov11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-100_Nov11.pdf</a>
38	OIG-11-105	The U.S. Citizenship and Immigration Services' Adjudication of Petitions for Nonimmigrant Workers (I-129 Petitions for H-1B and H-2B visas)	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-105_Aug11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-105_Aug11.pdf</a>
39	OIG-11-119	The Performance of 287(g) Agreements FY 2011 Update	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_11-119_Sep11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_11-119_Sep11.pdf</a>
40	OIG-12-05	U.S. Customs and Border Protection's Management of the Purchase and Storage of Steel in Support of the Secure Border Initiative	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_12-05_Nov11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_12-05_Nov11.pdf</a>
41	OIG-12-12	U.S. Citizenship and Immigration Services' Progress in Transformation	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_12-12_Nov11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_12-12_Nov11.pdf</a>
42	OIG-12-64	Operations of United States ICE's Secure Communities	<a href="http://www.oig.dhs.gov/assets/Mgmt/OIG_12-05_Nov11.pdf">http://www.oig.dhs.gov/assets/Mgmt/OIG_12-05_Nov11.pdf</a>
43	OIG-12-66	Communication Regarding Participation in Secure Communities	<a href="http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-66_Mar12.pdf">http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-66_Mar12.pdf</a>
44	OIG-12-84	Free and Secure Trade Program – Continued Driver Eligibility	<a href="http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-84_May12.pdf">http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-84_May12.pdf</a>
45	OIG-12-85	CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security	<a href="http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-85_May12.pdf">http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-85_May12.pdf</a>
46	OIG-12-86	Improvements Needed To Strengthen the Customs-Trade Partnership Against Terrorism Initial Validation Process for Highway Carriers	<a href="http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-86_Jun12.pdf">http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-86_Jun12.pdf</a>
47	OIG-12-125	U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements Program Issues	<a href="http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-86_Jun12.pdf">http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-86_Jun12.pdf</a>

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48	OIG-12-130	The Performance of 287(g) Agreements FY 2012 Follow-Up	<a href="http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-130_Sep12.pdf">http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-130_Sep12.pdf</a>
49	OIG-12-132	CBP's Strategy to Address Illicit Cross-Border Tunnels	<a href="http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-132_Sep12.pdf">http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-132_Sep12.pdf</a>
50	OIG-13-07	The Visa Waiver Program	<a href="http://www.oig.dhs.gov/assets/Mgmt/2013/OIG_13-07_Nov12.pdf">http://www.oig.dhs.gov/assets/Mgmt/2013/OIG_13-07_Nov12.pdf</a>
51	OIG-13-11	Improvements Needed for SAVE to Accurately Determine Immigration Status of Individuals Ordered Deported	<a href="http://www.oig.dhs.gov/assets/Mgmt/2013/OIG_13-11_Dec12.pdf">http://www.oig.dhs.gov/assets/Mgmt/2013/OIG_13-11_Dec12.pdf</a>



**Post-Hearing Questions for the Record  
Submitted to Kevin K. McAleenan  
From Senator Carl Levin**

**“Border Security: Examining Provisions in the Border Security, Economic Opportunity, and  
Immigration Modernization Act (S. 744)”  
May 7, 2013**

<b>Question#:</b>	1
<b>Topic:</b>	staffing 1
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Carl Levin
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Does DHS currently have the authority to transfer border staffing from the northern border to the southern border?

**Response:** U.S. Customs and Border Protection has the authority to transfer staff from any location to another, including from the Northern Border to the Southern border, to address emerging threats and meet mission requirements. However, CBP is constrained by congressional direction to maintain a set number of Border Patrol agents on the Northern Border, may face limited ability to fund agent relocations, and must comply with all applicable labor relations laws and negotiated collective bargaining agreements when filling positions.

<b>Question#:</b>	2
<b>Topic:</b>	staffing 2
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Carl Levin
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Has DHS fulfilled the authorized staffing levels outlined in the USA PATRIOT Act (P.L. 107-56) of 2002 and the staffing requirements described in the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA)? If so, to what extent has DHS used that authority?

**Response:** Under Section 401 of the PATRIOT Act, Public Law 107-56, the Attorney General was authorized to waive full-time equivalent personnel caps on Immigration and Naturalization Service (INS) personnel on the Northern Border (which now applies to the Secretary of DHS and Border Patrol Agents (BPAs) on the Northern Border).

The United States Customs and Border Protection Agency (CBP) has complied with PATRIOT Act requirements by managing Northern Border BPAs based on minimum required staffing levels (floors), not maximum levels (caps).

Between the establishment of CBP in FY 2003 and the end of FY 2012, BPA staffing has more than doubled – from 10,678 to 21,394, and Northern Border BPA staffing has increased four-fold – from 551 to 2,206, over the same time period.

In addition, the Department has increased staffing levels for full-time Immigration and Customs Enforcement (ICE) investigators as follows:

Standard Job Group	End FY05	End FY06	End FY07	End FY08	End FY09	End FY10
Criminal Investigator	5993	6013	6076	6195	6593	6912

As for complying with the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004 (P. L. 108-458), Section 5202 tasked CBP to increase full-time BPA staffing by 2,000 per year between FY 2006 and 2010, and to increase Northern Border BPA staffing by 20 percent each fiscal year.

As shown in the table below, CBP met the IRTPA mandate, increasing BPA staffing from 12,349 at the end of FY 2006 to 20,558 in FY 2010. Within three years, between FY 2006 and FY 2009, CBP had increased BPA staffing by 7,770, thus meeting the 2,000 per year requirement for that period. Although the BPA staffing increase in FY 2010 was 439, this still met the overall four-year requirement, as it represented a total increase of 8,209 (average 2,052 per year) over the four year period.

<b>Question#:</b>	2
<b>Topic:</b>	staffing 2
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Carl Levin
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Over the same four-year period, CBP increased Northern Border BPA staffing from 919 to 2,263, representing a total increase of 146.2 percent. Although FY 2006-07 (19.5 percent) and FY 2009-10 (19.9 percent) increases were both slightly below the 20 percent threshold, FY 2007-08 and 2008-09 increases were 24.1 percent and 38.4 percent, respectively, thereby achieving an average annual increase of 25.5 percent in Northern Border BPA staffing.

End of Fiscal Year	Total Border Patrol Agents (BPA)			Northern Border BPAs	
	Onboard	Change from Previous Year	Change from FY 2006	Onboard	Change from Previous Year
2006	12,349	-	-	919	-
2007	14,925	2,576	2,576	1,098	179 19.5%
2008	17,499	2,574	5,150	1,363	265 24.1%
2009	20,119	2,620	7,770	1,887	524 38.4%
2010	20,558	439	8,209	2,263	376 19.9%
<b>FY 2006-2010 Average</b>		<b>2,052</b>			<b>336 25.5%</b>
2011	21,444			2,237	
2012	21,394			2,206	

In sum, DHS has filled the authorized levels outlined in the USA PATRIOT Act (P.L. 107-56) of 2002 and the staffing requirements in the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA).

<b>Question#:</b>	3
<b>Topic:</b>	transferred agents I
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Carl Levin
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** If DHS is to transfer agents from the Northern Border to the southern border, what affect might that have on northern border security?

If DHS is to transfer agents from the Northern Border to the southern border, what affect might that have on northern border trade?

If DHS transfers agents from the northern border to the southern border, what steps will it take to ensure that security and trade on the northern border is not compromised?

**Response:** U.S. Customs and Border Protection (CBP) is committed to ensuring the security of our Northern Border, while continuing to facilitate legitimate travel and trade in the most effective manner possible.

Since the Department of Homeland Security was created in 2003, the Northern Border has experienced a 59 percent reduction in apprehensions between the ports of entry as a result of the effective deployment of technology and strong collaboration with local, state, federal and Canadian partners. The need for Border Patrol agents to patrol long stretches of remote territory alone has dramatically decreased due to the force multiplying effect and the expanded application of technology, such as Unmanned Aerial Systems and Remote Video Surveillance. If Border Patrol agents were transferred away from the Northern Border, CBP would continue to expand the use of wide area surveillance technology and maintain our strong partnerships with local, state, and federal and Canadian law enforcement agencies counterparts to sustain increased security through shared resources and intelligence.

Border security and economic security go hand in hand. To ensure that trade and security are not compromised at any of our Nation's ports of entry, CBP developed a Workload Staffing Model to measure the resources required to effectively carry out our increasingly complex mission and adequately staff all our ports of entry. It includes all tasks performed by CBP officers in all environments – air, land, and sea – and identifies those ports of entry that do not have sufficient resources to meet the existing workload needs. CBP uses the model as a decision-support tool, to help identify staffing levels and needs at ports of entry to ensure resources are aligned with mission requirements. The Administration's Fiscal Year (FY) 2014 Budget request would provide resources to those ports of entry that have demonstrated a need based upon, but not limited to, increased volume, expanding facilities, threat levels, and projected growth in volume through FY

<b>Question#:</b>	3
<b>Topic:</b>	transferred agents I
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Carl Levin
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

2014. The proposed legislation, S. 744, also authorizes additional CBP officers to carry out the provisions in the bill. Additionally, CBP will continue to work with our Canadian partners on collaboration initiatives, such as those provided by the Beyond the Border Action Plan to increase information sharing capabilities and further improve the security and efficiency for both countries.

**Post-Hearing Questions for the Record  
Submitted to Kevin K. McAleenan  
From Senator Heidi Heitkamp**

**“Border Security: Examining Provisions in the Border Security, Economic Opportunity, and  
Immigration Modernization Act (S. 744)”  
May 7, 2013**

<b>Question#:</b>	4
<b>Topic:</b>	transferred agents 2
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Heidi Heitkamp
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The northern border is an important conduit for economic activity – both goods and people. Canada is our nation’s largest trading partner, and anything that could potentially impact that relationship, or throw up potential roadblocks to that partnership, requires close and careful consideration. Section 1102 of S.744 provides authorization to transfer Customs and Border Protection officers and patrol agents from the northern border to the southern border.

If such transfers were to occur, at what point would reductions in staffing on the northern border begin to impact the flow of cross-border economic activity?

Given the provisions of this legislation, does CBP have the authority to protect, facilitate and enhance the efficient flow of cross-border economic activity along the northern border?

**Response:** U.S. Customs and Border Protection (CBP) is committed to ensuring the security of our Northern Border, while continuing to facilitate legitimate travel and trade that contribute to economic growth.

Border security and economic security go hand in hand. To ensure that trade and security are not compromised at any of our Nation’s ports of entry, CBP developed a Workload Staffing Model that measures the resources required to effectively carry out our increasingly complex mission and to staff all our ports of entry. It includes all tasks performed by CBP officers in all environments – air, land, and sea – and identifies those ports of entry that do not have sufficient resources to meet the existing workload needs. CBP uses the model as a decision-support tool, to help identify staffing levels and needs at ports of entry to ensure resources are aligned with mission requirements. The Administration’s Fiscal Year (FY) 2014 Budget request would provide resources to those

<b>Question#:</b>	4
<b>Topic:</b>	transferred agents 2
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Heidi Heitkamp
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

ports of entry that have a demonstrated a need based upon, but not limited to, increased volume, expanding facilities, threat levels, and projected growth in volume through FY 2014. The proposed legislation, S. 744 authorizes additional CBP officers to carry out the provisions in the bill. Additionally, CBP will continue to work with our Canadian partners on collaboration initiatives, such as those provided by the Beyond the Border Action Plan to increase information sharing capabilities and further improve the security and efficiency for both countries.

**Question:** What steps will CBP take to ensure northern border economic activity is not negatively impacted by this legislation?

**Response:** CBP will continue to engage with the international trade community and the Canada Border Services Agency during the transition in order to identify any impact CBP operations may have on the movement of trade and travelers on the Northern Border and implement adjustments to address any shortfalls.

CBP's partnership with Canada is critical to ensuring the healthy flow of economic activity at the Northern Border. CBP will continue to foster our strong relationship with Canada and maintain our commitment to the security and economic benefits developed through the Beyond the Border Action Plan. CBP will also continue to focus on business transformation initiatives to increase security and efficiency. These initiatives include mobile technology, automated passport control, pedestrian and airport kiosks, and forms automation. CBP will also plan to continue the expansion of the trusted traveler and trusted trader programs. These programs, such as Global Entry, SENTRI, C-TPAT and FAST, both increase security and facilitate legitimate flows of trade and travel.

<b>Question#:</b>	5
<b>Topic:</b>	border threats
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Heidi Heitkamp
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** I feel there are two general categories of those trying to cross the border. There are those who cross the border because they perceive greater economic opportunity for themselves or their families in the United States. Then, there are those who seek to bring illegal goods into our nation or individuals who want to enter the United States in order to harm or attack our citizens. Any legislation that Congress considers needs to contain adequate provisions to ensure all our borders – southern, northern and maritime – are adequately protected from the very dangerous individuals in that second group.

Does S. 744 provide the resources and flexibility so CBP can successfully respond to northern border enforcement challenges – many of which are far different than those which are faced on the southern border?

**Response:** The U.S.-Canada border is a significantly different operational environment than the Southern border.

CBP is committed to ensuring the security of our Northern Border, while continuing to facilitate legitimate travel and trade that contribute to economic growth.

To date, the Northern Border has experienced a 59 percent reduction in apprehensions between the ports of entry, in part as a result of the effective deployment of technology and strong collaboration with local, state, Federal and Canadian partners. Although the overall volume of illegal travel between the United States and Canada and the corresponding threat is very low, the border's vastness diminishes our confidence that all illegal border crossers can reliably be detected and interdicted in remote areas. If agents were transferred away from the Northern Border, CBP would continue to expand the use of wide area surveillance technology and maintain our strong partnerships with local, state, and Federal and Canadian law enforcement agencies counterparts to mitigate the impact on security through shared resources and intelligence.

CBP's Office of Field Operations (OFO) will continue to utilize its workload staffing model to help identify staffing levels and needs at ports of entry (POEs) and adjust to emerging threats or insufficient resources. The Administration's Fiscal Year (FY) 2014 budget submission seeks to add 3,400 CBP officers to address the existing nation-wide staffing shortfalls at the 329 POEs. These requested additional officers do not take into account the additional workload that Comprehensive Immigration Reform would impose



<b>Question#:</b>	5
<b>Topic:</b>	border threats
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Heidi Heitkamp
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

on POEs. However, the additional CBP officers as proposed in S. 744 would address some of these staffing constraints.

**Question:** What are the biggest threats regarding the northern border and what actions are CBP taking to mitigate such threats?

**Response:** The primary threats along the U.S.-Canada border are possible attempts by homegrown violent extremists and persons watch listed as known or suspected terrorists (KSTs) to travel between the United States and Canada, as well as drug and human trafficking that occur in both directions across the border. Other concerns include the illegal movement of prohibited or controlled goods, agricultural hazards, and the spread of infectious disease. To address these threats on the Northern Border, the Department of Homeland Security focuses on bi-national, Federal, state, local, and tribal law enforcement partnerships; information sharing agreements; joint integrated operations; and community outreach in order to maximize efforts and resources.

CBP is expanding the intelligence infrastructure on the Northern Border, fusing technical and analytical disciplines to support border operations. The priorities of this developing capability are to ensure a strategic, community-level focus on priority intelligence missions; ensure a holistic understanding of the operating environment, throughout all CBP Northern Border operations; oversee intelligence targeting opportunity using organic and other government agency sensor technology; and provide timely, tailored intelligence products based on regionally specific concerns to CBP personnel and our partners. CBP is continuing to expand our Federal, state, local, tribal, and international partnerships along the Northern Border. CBP is represented at the U.S. Embassy in Ottawa and both CBP and Canadian law enforcement and military entities value our relationship and recognize its key role in assuring the respective security and safety of our citizens. CBP enforcement officers at all levels cooperate with Canadian counterparts daily and, increasingly, U.S. and Canadian prosecutors pursue collaborative investigations.

Through integrated agency operations, CBP is developing better situational awareness by expanding information sharing to maximize the effectiveness of our Northern Border resources for interdiction and seizure operations. At the ports of entry, CBP's Office of Field Operations (OFO) employs a layered defense strategy and utilizes personnel, cutting-edge technology, and canine detection teams to screen people, vehicles, and cargo attempting entry into the United States through designated POEs. Improved coordination of watch list information and targeted screening between OFO and Canadian authorities decreases the chance of a KST transiting a POE undetected. Between the ports of entry,

<b>Question#:</b>	5
<b>Topic:</b>	border threats
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<b>Committee:</b>	HOMELAND SECURITY (SENATE)

CBP's Office of Border Patrol deploys its assets based on threat, risk, and vulnerability. By maximizing strategic, operational, and tactical intelligence sharing through Canadian and domestic partnerships, the Border Patrol increases the likelihood of interdiction and apprehension of cross-border illegal activity. As bilateral watch list information sharing continues to make Northern Border POEs more secure against terrorist passage, however, Border Patrol will need to maintain its readiness posture to detect and interdict potential KST attempts to cross the border illegally. CBP's Office of Air and Marine (OAM) utilizes a variety of aircraft and marine vessels to proactively patrol the border and support other law enforcement agencies. As threats and intelligence evolve, OAM reviews and adjusts its plans to focus on emerging threats and those that present the highest risk, ensuring that highly mobile air and marine forces are focused where those capabilities will yield the highest operational dividends.

DHS S&T is working with CBP's Office of Border Patrol to provide a radar surveillance technology on the Northern Border near Lake Champlain. Later this summer a Canadian sensor tower and a U.S. sensor tower will become operational and share radar and camera data from their respective sides of the border in Swanton, VT Sector. In October 2013, a sensor system pilot will begin testing in a relevant operational environment to provide detection data on low flying aircraft in parts of the Spokane, WA Sector.

**Question:** How will this legislation impact these efforts?

**Response:** The Border Security, Economic Opportunity, and Immigration Modernization Act, includes provisions that would help us accomplish these efforts. In particular, funding for the Department to continue deployment of proven, effective surveillance technology along the highest trafficked areas of the southwest border will help us continue to achieve record levels of apprehensions and seizures. Funds will be used to procure and deploy technology tailored to the operational requirements of the Border Patrol, the distinct terrain, and the population density within each sector. These provisions will allow us to sustain and build on our progress and ensure a border region that is safe and thriving.

<b>Question#:</b>	6
<b>Topic:</b>	improving border security
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Heidi Heitkamp
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** During the hearing, and in the ongoing national debate regarding improving border security, there has been significant discussion regarding the need of the Department of Homeland Security to smartly deploy technology to secure our borders. S. 744 provides \$6.5 billion to implement the legislation, and provides wide authorization to develop technology strategies and procure a wide range of items, such as surveillance systems and unmanned aerial vehicles, to secure 24-hour operational control of the border.

What steps will CBP take to improve its technology acquisition programs in order to ensure any equipment procurement uses proven technology and makes measureable progress toward improving border security?

**Response:** As with the Arizona Technology Plan, U.S. Customs and Border Protection (CBP) will initiate its acquisition efforts with a combination of quantitative analysis and operational experience. CBP's analytical efforts will utilize criteria such as technological maturity to favor technologies that have proven track records of success. To measure the effectiveness of technology, CBP is currently undertaking efforts to determine which metrics are both meaningful and feasible to obtain. These metrics will provide a means to determine and/or validate that CBP's applied technology is achieving measurable progress.

**Question:** Does the legislation, in your opinion, provide authorization to purchase technology assets, such as surveillance systems or unmanned aerial vehicles, that would be deployed on the northern border?

**Response:** S. 744 states that "[n]othing in this Act may be construed to authorize the deployment, procurement, or construction of fencing along the Northern Border." S.744, however, does not completely ignore Northern Border security matters. Title I of the bill, for example, defines "Northern Border" for its purposes, to include defining the membership of the Department of Homeland Security (DHS) Task Force created by the bill. Subject to the availability of appropriations, S.744 also contains various authorizations of appropriations from the "Comprehensive Immigration Reform Trust Fund." The bill separately "authorize[s] to be appropriated . . . such sums as may be necessary to carry out" other authorizations without reference to the Trust Fund. One such authorization is found in Section 1106, entitled "Equipment and Technology," which explicitly identifies the "Southwest border" or "Southwest border region" in most

<b>Question#:</b>	6
<b>Topic:</b>	improving border security
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<b>Primary:</b>	The Honorable Heidi Heitkamp
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

of its provisions concerning technology assets. For instance, subsection (a)(1) concerns the deployment of “additional mobile, video, and agent-portable surveillance systems, and unarmed, unmanned aerial vehicles *in the Southwest border region* as necessary....” (emphasis added). Subsection (a)(4), on the other hand, authorizes new acquisition of rotorcraft and upgrades to the existing helicopter fleet. This authorization does not explicitly limit those acquisitions and upgrades to only the Southern border fleet.

**Question:** What unmet technology needs has CBP determined exist on the northern border and what is the CBP strategy for meeting those needs?

**Response:** While a complete Analysis of Alternatives has not been conducted, CBP has engaged in ongoing technology demonstration efforts to address technology needs on the Northern Border, such as low flying aircraft and maritime surveillance detection. After a completed Analysis of Alternatives, CBP would consider operational prioritization based on risk as well as other factors. Both material procurements and non-material solutions would be employed to meet those needs consistent within the established priorities.

**Question:** What role can air operations, such as unmanned aerial systems, play in ensuring our nation can adequately secure the northern border?

**Response:** The emergence of technologies such as detection platforms, to include unmanned aerial systems and new sensor devices, have a profound impact on CBP’s awareness of border security threats and threat vectors. Technology is a proven force multiplier; however, while many of the detection devices available offer greater hope for achieving border security, integration of these technologies is far more complex than simple acquisition of the assets. On the Northern Border, Synthetic Aperture RADAR and Coherent Change Detection technology have proven very effective for the identification of illicit border crossing locations. This same technology is also used by the CBP Office of Air and Marine to map potential flood locations, thereby assisting federal, state, and local agencies with the identification of levee changes, bridge structural damage, and flood damage assessment.

CBP continues to investigate innovative approaches toward achieving efficient and effective security for the United States. Emerging technologies such as new detection platforms and new sensor devices are proven force multipliers and greatly increase the effectiveness of CBP’s layered border surveillance strategy.

<b>Question#:</b>	7
<b>Topic:</b>	DHS strategy
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Heidi Heitkamp
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** If it is signed into law, a key facet of the success of S. 744 will be if the U.S. public has confidence in the DHS strategy to secure the border, that money is being spent wisely and that the agency is reporting verifiable data about the effective control and effectiveness rate of the border.

What is the DHS strategy to increase public confidence in the border security strategies that S. 744 requires?

**Response:** CBP uses a variety of measures to inform the overall state of security along our borders and will continue to use and improve on those measures to get a more comprehensive picture. In FY 2014 the Border Patrol will continue to use a range of measures including those measures referenced in the quarterly Border Security Status Report. Given the wide range of operational challenges and geographical differences along our border, and the types of resources deployed, CBP will continue to rely on multiple output and outcome measures to determine the state of border security and assess progress in improving upon that state. The Border Patrol is also developing new measures for reporting in future fiscal years, including measures of situational awareness, mobility, and border security readiness.

**Post-Hearing Questions for the Record**  
**Submitted to the Honorable David F. Heyman and Kevin K. McAlcenan**  
**From Senator Tom Coburn**

**“Border Security: Examining Provisions in the Border Security, Economic Opportunity, and  
Immigration Modernization Act (S. 744)”**  
**May 7, 2013**

<b>Question#:</b>	8
<b>Topic:</b>	border security/close outs
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** In her testimony, Ms. Richards pointed out that DHS has not yet closed out 47 of the Office of Inspector General’s recommendations for its work related to border security and immigration law enforcement. Can you please tell the Committee whether the Department will implement all of these recommendations and, if so, when we can expect them to be closed out?

**Response:** DHS has agreed to implement 45 (96 percent) of the OIG’s 47 recommendations and is working to implement suitable alternative corrective actions for the two others, with which the Department disagreed. Specifically, DHS has already implemented 20 (43 percent) of the 47 recommendations. 9 of these 20 recommendations have been closed by OIG, and DHS and is working to obtain OIG concurrence that appropriate actions have been taken and corrected the deficiencies cited before these recommendations are formally closed on the remaining 11 recommendations (DHS does not close OIG or Government Accountability Office (GAO) recommendations without the concurrence of the respective audit agency). Twenty five (25) of the other recommendations are in various stages of implementation, with project completion dates for 24 ranging from September 30, 2013, to September 30, 2014, and one currently showing as “To Be Determined” due to uncertainty related to the budget and resource availability for hiring additional staff. The Department disagreed with two recommendations; however, is continuing follow-up work with OIG to reach agreement on resolving and closing both, which we anticipate doing by September 31, 2013 for one, and December 31, 2013 for the other. The attached spreadsheet provides additional details on all 47 recommendations.

Open DHS-OIG Recommendations on Border Security and Immigration  
(As of 06/12/2013)

#	Comp.	Report Number	Report Title	Nov #	Recommendation	Department Position	Remarks/Comments	Projected Completion Date
1	CBP	OIG-11-16	Customs and Border Protection Implementation of the Western Hemisphere Travel Initiative at Land Ports of Entry	2	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014
2	CBP	OIG-11-16	Customs and Border Protection Implementation of the Western Hemisphere Travel Initiative at Land Ports of Entry	3	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014
3	CBP	OIG-11-16	Customs and Border Protection Implementation of the Western Hemisphere Travel Initiative at Land Ports of Entry	4	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014
4	CBP	OIG-11-43	Customs and Border Protection Implementation of the Western Hemisphere Travel Initiative at Land Ports of Entry	2	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014
5	CBP	OIG-12-84	Free and Secure Trade Program - Continued Driver Eligibility	1	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014
6	CBP	OIG-12-84	Free and Secure Trade Program - Continued Driver Eligibility	3	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014
7	CBP	OIG-12-85	CBP's Use of Unmanned Aircraft Systems in Northern Border Security	1	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014
8	CBP	OIG-12-85	CBP's Use of Unmanned Aircraft Systems in Northern Border Security	4	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014
9	CBP	OIG-12-132	CBP's Strategy to Address Illicit Cross-Border Tunnels	1	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014
10	CBP	OIG-12-132	CBP's Strategy to Address Illicit Cross-Border Tunnels	2	Recommend that the Assistant Commissioner, Office of Field Operations (OFO), coordinate with the Department of State and the Mexican government to develop an information exchange program to monitor the eligibility of Mexican participants in the FAST program.	Concur	Below are the upcoming milestones needed to ensure that the rule making process is completed. Instead of publishing CBP's proposed rule with OIG and OGC, CBP may request a rule with 90 comment period 01-30-2014. Respond to comments and prepare final rule 03-30-2014. Obtain approval for final rule publication 06-30-2014. Finalize and obtain CBP approval for the implementation of the revised policy resulting from the rule making 09-30-2014.	9/30/2014

#	Comp.	Report Number	Report Title	Rec #	Recommendation	Department Position	Remarks/Comments	Projected Completion Date
11	ICE	OG-10-22	Release of the U.S. Immigration and Customs Enforcement's Workable Enforcement Strategy	1	Recommend that the Assistant Secretary of U.S. Immigration and Customs Enforcement, in coordination with the U.S. Department of Health and Human Services, develop and implement a strategy to ensure that ICE's law enforcement activities are consistent with the public health and safety of the community, as well as procedures for screening detainees for infectious diseases, including screening for tuberculosis.	Concur	The remaining policy document is awaiting final signatures. As with every new or revised policy, a Day to Begin Statement must be prepared, reviewed, and approved by the ICE labor attorneys, and signed by senior management.	9/30/2013
12	ICE	OG-11-52	Management of Mental Health Cases in Immigration Detention	2	Recommend that Immigration and Customs Enforcement prioritize hiring a permanent director and mental health staff to oversee and coordinate the mental health services. This should include ensuring the use of available hiring procedures and ensuring that the mental health services are accessible to all detainees.	Concur	A new permanent Assistant Director for ICE was selected in February 2011. As part of the Assistant Director's duties, he will oversee the mental health services. ICE has been working to ensure that the mental health services are accessible to all detainees. ICE is currently working to ensure that the mental health services are accessible to all detainees.	9/30/2013
13	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	4	Recommend that Immigration and Customs Enforcement establish procedures for timely evaluating and transferring detainees who are in need of mental health services. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community health care providers.	Concur	ICE intends to implement the Medical Classification System. However, due to various IT delays, the Medical Classification System Live Robot has not been postponed on several occasions. The system server had to be temporarily moved to Washington, DC while the web-based developer rebuilt the system in Houston. The ultimate goal is to return to Houston.	12/31/2013
14	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	6	Recommend that Immigration and Customs Enforcement establish procedures for timely evaluating and transferring detainees who are in need of mental health services. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community health care providers.	Concur	ICE intends to implement the Medical Classification System. However, due to various IT delays, the Medical Classification System Live Robot has not been postponed on several occasions. The system server had to be temporarily moved to Washington, DC while the web-based developer rebuilt the system in Houston. The ultimate goal is to return to Houston.	12/31/2013
15	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	7	Recommend that Immigration and Customs Enforcement identify detention facility areas with minimal or no community health care services, and ensure that such facilities are accessible to community health care providers.	Concur	ICE intends to implement the Medical Classification System. However, due to various IT delays, the Medical Classification System Live Robot has not been postponed on several occasions. The system server had to be temporarily moved to Washington, DC while the web-based developer rebuilt the system in Houston. The ultimate goal is to return to Houston.	12/31/2013
16	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	8	Recommend that Immigration and Customs Enforcement establish procedures for timely evaluating and transferring detainees who are in need of mental health services. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community health care providers.	Concur	ICE intends to implement the Medical Classification System. However, due to various IT delays, the Medical Classification System Live Robot has not been postponed on several occasions. The system server had to be temporarily moved to Washington, DC while the web-based developer rebuilt the system in Houston. The ultimate goal is to return to Houston.	12/31/2013
17	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	9	Recommend that Immigration and Customs Enforcement field offices to request mental health information for detainees who are in need of mental health services. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community health care providers.	Concur	ICE intends to implement the Medical Classification System. However, due to various IT delays, the Medical Classification System Live Robot has not been postponed on several occasions. The system server had to be temporarily moved to Washington, DC while the web-based developer rebuilt the system in Houston. The ultimate goal is to return to Houston.	12/31/2013
18	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	12	Recommend that Immigration and Customs Enforcement assign HSC case managers in field positions to provide direct care to detainees who are in need of mental health services. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community health care providers.	Concur	ICE has developed and provided the OIG with documentation for the newly established Field Case Manager position. The position is currently working with OIG to ensure that the recommendations are implemented.	9/30/2013
19	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	13	Recommend that Immigration and Customs Enforcement establish procedures for training and staffing mental health services in detention facilities. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community health care providers.	Concur	A mission action plan update has been provided to the OIG indicating that ICE has initiated OPA-wide training procedures for handling cases where detainees must be used for mentally incompetent detainees. ICE is currently working with OIG to ensure that the recommendations are implemented.	9/30/2013
20	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	14	Recommend that Immigration and Customs Enforcement establish procedures for training and staffing mental health services in detention facilities. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community health care providers.	Concur	ICE has initiated OPA-wide training that includes guidance on the role of custodians. This training includes internal procedures for handling cases where detainees must be used for mentally incompetent detainees. ICE is currently working with OIG to ensure that the recommendations are implemented.	9/30/2013
21	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	15	Recommend that Immigration and Customs Enforcement establish procedures for training and staffing mental health services in detention facilities. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community health care providers.	Concur	ICE has initiated OPA-wide training that includes guidance on the role of custodians. This training includes internal procedures for handling cases where detainees must be used for mentally incompetent detainees. ICE is currently working with OIG to ensure that the recommendations are implemented.	9/30/2013
22	ICE	OG-11-42	Management of Mental Health Cases in Immigration Detention	16	Recommend that Immigration and Customs Enforcement establish procedures for training and staffing mental health services in detention facilities. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community health care providers.	Concur	ICE has initiated OPA-wide training that includes guidance on the role of custodians. This training includes internal procedures for handling cases where detainees must be used for mentally incompetent detainees. ICE is currently working with OIG to ensure that the recommendations are implemented.	12/31/2013



#	Comp.	Report Number	Report Title	Rec #	Recommendation	Department Position	Remarks/Comments	Projected Completion Date
23	ICE	OIG-11-62	Management of Mental Health Cases in Immigration Detention	17	Recommend that Immigration and Customs Enforcement include the use of psychiatric-mental health nurses in formal staffing plans.	Concur	ICE IHSC is moving forward on acquisition options pertaining to implementing a nurse's training program to address specific mental health needs of the detained population. A walk-through will be conducted with members of the ICE Office of Detention Policy and Planning (ODPP) prior to implementation to determine build-out requirements. The transitional unit has been delayed.	12/31/2013
24	ICE	OIG-11-62	Management of Mental Health Cases in Immigration Detention	18	Recommend that Immigration and Customs Enforcement expand the use of tele-psychiatry to those facilities located in areas with limited access to psychiatrists.	Concur	ICE IHSC continues to review the use of tele-psychiatry at those facilities located in areas with limited access to psychiatrists. Expansion will be based on facility need. A SOW for tele-medicine is still under revision by OAC. They are looking into IT requirements to make it compatible with upcoming eHR.	12/31/2013
25	ICE	OIG-11-62	Management of Mental Health Cases in Immigration Detention	19	Recommend that Immigration and Customs Enforcement establish procedures to ensure that tele-psychiatry is used efficiently. As a minimum, this should include a review of current tele-psychiatry connections, equipment, and any overlaps with existing mental health services.	Concur	ICE is reviewing a Draft policy submitted for revision and approval to IHSC leadership. The draft policy and procedures to ensure the efficient use of tele-psychiatry is under review by a policy workgroup.	9/30/2013
26	ICE	OIG-11-62	Management of Mental Health Cases in Immigration Detention	20	Recommend that Immigration and Customs Enforcement expedite efforts to develop and implement an electronic medical record system.	Concur	ICE intends to implement the Medical Classification System. However, due to various IT delays, the Medical Classification System Live Rollout has been postponed on several occasions. The system server had to be temporarily moved to Washington, DC while the web based developer rebuilt the system in Houston. The ultimate goal is to return to Houston.	12/31/2013
27	ICE	OIG-11-81	Supervision of Aliens Commensurate With Risk	1	Recommend that the ICE ERO Director enforce current policy and procedures for screening aliens against the NCIC prior to release, and develop procedures to ensure that personnel comply with the policy.	Concur	ICE response to the OIG indicated that a broadcast message had been sent to all ICE field offices reinforcing the importance of conducting NCIC checks prior to release or removal of aliens. ICE is awaiting OIG's response. OIG is initiating a new audit.	12/31/2013
28	ICE	OIG-11-81	Supervision of Aliens Commensurate With Risk	2	Recommend that the ICE ERO Director revise ICE's current policy to require officers to conduct TAC screenings for all aliens from SDCs, not just those held in ICE detention facilities.	Non-Concur	ICE did not concur with this recommendation. While desirable, conducting Third Agency Checks (TACs) on the current non-detained population alien from Specially Designated Countries (SDCs) cannot be justified in light of other workload demands. Pursuant to current ICE policy, a TAC check will be completed on these aliens prior to removal. Additionally, it is current ICE policy to conduct TAC checks as appropriate on all aliens coming into ICE custody. In May 2013, OIG initiated a new audit pertaining to the area. We plan to engage OIG to determine the relevancy of this recommendation in light of this audit.	9/30/2013
29	ICE	OIG-11-119	The Performance of 287(g) Agreements - FY 2011 Update	8	Recommend that Immigration and Customs Enforcement assess the current MOA to identify language that does not (1) clearly specify program requirements or (2) provide a measurable standard for assessing compliance.	Concur	ICE provided proposed MOA language to DHS for clearance and the language is currently under review.	Closed with OIG concurrence in July 2013
30	ICE	OIG-11-119	The Performance of 287(g) Agreements - FY 2011 Update	9	Recommend that Immigration and Customs Enforcement develop MOA language that clearly specifies program requirements, provides a measurable standard for assessing compliance, and eliminates the need to interpret program requirements.	Concur	ICE provided proposed MOA language to DHS for clearance and the language is currently under review.	Closed with OIG concurrence in July 2013
31	ICE	OIG-12-64	Effectiveness of United States Immigration and Customs Enforcement's Secure Communities	1	Recommend that Immigration and Customs Enforcement's Enforcement and Removal Operations, Executive Associate Director develop procedures to eliminate duplication in the identification process. If necessary, develop short-term and long-term procedures.	Concur	Mission Action Plan submitted to the OIG indicates the development and deployment of a modernized Alien Criminal Response Information Management (ACRIMe) system to all field office sites.	9/30/2013
32	ICE	OIG-12-64	Effectiveness of United States Immigration and Customs Enforcement's Secure Communities	2	Recommend that Immigration and Customs Enforcement's Enforcement and Removal Operations, Executive Associate Director develop procedures and systems controls to ensure that officers complete all records for individuals identified through Secure Communities.	Concur	Mission Action Plan submitted to the OIG indicates the design, development, and implementation of a Methodology and Field Guidance for the reporting and tracking of compliance results. The first monthly tracking report and field guidance was completed in December 2012. Monthly Field Results will be evaluated for a minimum period of at least six months to determine additional action plans.	9/30/2013
33	ICE	OIG-12-66	Communication Regarding Participation in Secure Communities	1	Recommend the Director, United States Immigration and Customs Enforcement immediately compose and release thorough guidance and criteria that specifically outline the intent and expectations of Secure Communities. The guidance should specify which aspects of Secure Communities are optional for States and local law enforcement agencies.	Concur	ICE's Mission Action Plan submitted to the OIG explained that it had taken many steps to clarify confusion surrounding whether an MOA is required for Secure Communities to operate in a State or local jurisdiction. OIG's response indicated that it felt the agency did not fully address the intent of the recommendation. ICE is working on addressing OIG's request for a comprehensive document.	9/30/2013
34	ICE	OIG-12-66	Communication Regarding Participation in Secure Communities	2	Recommend the Director, United States Immigration and Customs Enforcement coordinate with the Department of Homeland Security to establish protocols to ensure that the Department and United States Immigration and Customs Enforcement senior leadership provide the necessary direction, guidance, oversight, and support for the intent and implementation of new immigration enforcement programs.	Concur	ICE provided a Lessons Learned document to address the roles and responsibilities of ICE senior leadership and coordination with the Department regarding future program development and implementation. ICE is working on providing additional documentation as requested by the OIG.	9/30/2013

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#	Comp.	Report Number	Report Title	Rec #	Recommendation	Department Position	Remarks/Comments	Projected Completion Date
35	ICE	OIG-12-66	Communication Regarding Participation in Secure Communities	3	Recommend the Director, United States Immigration and Customs Enforcement generate a lessons learned document and plan for the Department of Homeland Security to use when guiding future immigration and enforcement program development and implementation.	Concur	ICE provided the OIG with a Lessons Learned document for planning future enforcement programs, priorities, and implementation. ICE is evaluating OIG's analysis and working on providing a revised document and plan as requested.	9/30/2013
36	ICE	OIG-12-130	The Performance of 287(g) Agreements FY 2012 Follow-Up	1	Recommend that the Executive Associate Director, Office of Management and Administration, provide the Office of Professional Responsibility with the classification study results by December 31, 2012.	Concur	ICE submitted its initial mission action plan to the OIG. The classification study results were provided to the Office of Professional Responsibility. The draft results are under evaluation and discussion. Final documentation is being prepared as requested by the OIG.	Closed with OIG concurrence in July 2013
37	ICE	OIG-12-130	The Performance of 287(g) Agreements FY 2012 Follow-Up	2	Recommend that the Assistant Director, ICE Office of Professional Responsibility, if needed, develop a transition plan to complete any reclassification efforts during FY 2013.	Concur	ICE is working with the OIG to finalize its written transition plan with timeline, number of positions to be transitioned, organizational structure, etc. to complete any reclassification efforts during FY 2013.	Closed with OIG concurrence in July 2013
38	PLCY	OIG-13-07	The Visa Waiver Program	1	We recommend that the Office of Policy communicate to Department of State (DOS) and foreign officials the compliance standards and the criteria used to assess compliance.	Concur	On April 29, 2013, DHS provided outstanding documents requested by the OIG related to engaging with aspirant countries. OIG sent email on June 3, 2013 agreeing to close out this recommendation. Official closure will occur upon receipt of monthly closure listing.	Closed with OIG concurrence in July 2013
39	PLCY	OIG-13-07	The Visa Waiver Program	2	We recommend that the Office of Policy develop and implement an overall reporting process that will satisfy the 2-year reporting timeline for Congress to receive information regarding the status of VWP participating countries.	Concur	On April 29, 2013 DHS provided outstanding documentation related to the new reporting protocol that OIG requested. OIG sent email on June 3, 2013 agreeing to close out this recommendation. Official closure will occur upon receipt of monthly closure listing.	Closed with OIG concurrence in July 2013
40	PLCY	OIG-13-07	The Visa Waiver Program	3	We recommend that the Office of Policy staff the VWPO at a level to maximize its effectiveness in assessing VWP countries' compliance with program requirements.	Concur	DHS is unable to staff this position because of budget constraints. DHS will fill this position when its budget allows.	TBD
41	PLCY	OIG-13-07	The Visa Waiver Program	4	We recommend that the Office of Policy assign the VWPO to an organization that will provide an effective management structure.	Concur	DHS moved the Visa Waiver Program Office to the Office of International Affairs. On April 29, 2013, DHS provided an updated office chart to the OIG. OIG sent email on June 3, 2013 agreeing to close out this recommendation. Official closure will occur upon receipt of monthly closure listing.	Closed with OIG concurrence in July 2013
42	USCIS	OIG-11-65	USCIS Privacy Stewardship	4	We recommend that the Deputy Director of USCIS enforce the consistent implementation of physical security standards.	Concur	USCIS continues to engage in a dialogue with the OIG regarding USCIS' progress in developing and implementing a new policy. On 6/14/13 the OIG requested answers to additional questions, which USCIS provided. Based upon the information provided, USCIS is awaiting a response from the OIG regarding closure of this recommendation.	Closed with OIG concurrence in July 2013
43	USCIS	OIG-12-125	U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements Program Issues	1	Recommend that the Deputy Associate Director, Enterprise Services Directorate implement a process to compile and track SAVE benefit applicant requests and referrals.	Concur	The Verification Division set up a process for tracking and referring record correction requests with Central Index System. In early May 2013, USCIS launched a prototype tracking tool in Enterprise Collaboration Network (ECN). Projected completion date is September 2013. USCIS determined an approach to leverage a current effort to upgrade the Verification Division's Customer Service and Support telephone line Interactive Voice Recognition System (IVR). The proposed path for inquiries will offer callers an option for "Records Correction" and include coordination with the USCIS National Customer Service Center. Since the 90-day letter to the OIG, the IVR telephony enhancement has been delayed to Phase II, which is planned for implementation in the first quarter of Fiscal Year 2014.	12/31/2013
44	USCIS	OIG-12-125	U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements Program Issues	2	Recommend that the Deputy Associate Director, Enterprise Services Directorate implement a process for SAVE database updates to report to the Verification Division whether changes to SAVE benefit applicant records were made.	Non-Concur	USCIS non-concurred with this recommendation as Systematic Alien Verification for Entitlements (SAVE) is not the owner of the immigration databases that it accesses in the Central Index System (CIS). However, the Verification Division, working with USCIS Records Division, set up a process for tracking and referring record correction requests with CIS. In early May 2013, USCIS launched a prototype tracking tool in Enterprise Collaboration Network (ECN). Projected completion date is September 2013. USCIS determined an approach to leverage a current effort to upgrade the Verification Division's Customer Service and Support telephone line Interactive Voice Recognition System (IVR). The proposed path for inquiries will offer callers an option for "Records Correction" and include coordination with the USCIS National Customer Service Center. Since the 90-day letter to the OIG, the IVR telephony enhancement has been delayed to Phase II, which is planned for implementation in the first quarter of Fiscal Year 2014.	12/31/2013
45	USCIS	OIG-13-11	Improvements Needed for SAVE to Accurately Determine Immigration Status of Individuals Ordered Deported	2	Recommend that the Deputy Director, USCIS: Develop an automated interface that will result in SAVE accurately reflecting the immigration status of individuals who have lost status as a result of a final removal order or expiration of time permitted to file an appeal.	Concur	USCIS has determined that the best source for obtaining timely immigration status information on individuals who are under a final order of removal is the Department of Justice's DOJ Executive Office of Immigration Review. USCIS has begun development of an interface with DOJ to receive this information and expects to implement it before the end of Fiscal Year 2013.	10/31/2013
46	USCIS	OIG-13-11	Improvements Needed for SAVE to Accurately Determine Immigration Status of Individuals Ordered Deported	3	Recommend that the Deputy Director, USCIS: Conduct periodic evaluations to validate the accuracy of SAVE initial verification.	Concur	USCIS's Systematic Alien Verification for Entitlements is currently investigating whether it is possible to improve the data quality from certain data sources. USCIS is also working to apply findings from existing quality control measures to the initial verification process in order to determine accuracy of its results. Corrective actions are planned for implementation at the end of Fiscal Year 2013.	10/31/2013



<b>Question#:</b>	9
<b>Topic:</b>	alien detainees
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** In her testimony, Ms. Richards explained that ICE officers cannot always prove that they have screened alien detainees to determine if they are in any federal databases of people to be suspected as potential threats to national security. Is the Department establishing a policy to ensure that this is done? If so, when will this policy be enforced?

**Response:** U.S. Immigration and Customs Enforcement (ICE) requires its personnel to screen all alien detainees via various DHS indices. As an inherent process of National Crime Index Center (NCIC) inquiries, ICE screens individuals that it encounters against federal databases—to include those maintained by NCIC, and the National Counterterrorism Center (NCTC) and the Terrorist Screening Center (TSC)—to determine whether the individual is a possible match to a known or suspected terrorist.

<b>Question#:</b>	10
<b>Topic:</b>	new positions
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** If it is enacted, the comprehensive immigration reform bill (S. 744) would create new and expanded responsibilities for DHS. Please detail how many new positions would need to be created and filled at DHS and its components, including USCIS and CBP.

**Response:** Projected staffing requirements have not yet been developed. However, the Department provided technical assistance to the drafters of the legislation to ensure that the projected workload is extended over a manageable timeline.

As the immigration reform discussion continues in Congress, DHS will continue to study legislative requirements to determine whether adjustments are needed in staffing. The Department will continue to work closely with Congressional leaders in any implementation process to ensure it is adequately staffed to successfully implement legislative requirements.

<b>Question#:</b>	11
<b>Topic:</b>	plans
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Does the Department of Homeland Security have plans that are similar to the southern border security plan and the southern border fencing strategy plans that are required in this bill? If so, please provide them to the Committee.

**Response:** Yes, as part of Southwest Border Initiative announced by Secretary Napolitano in 2009, DHS has doubled Border Enforcement Security Task Force (BEST) teams that incorporate federal, state, and local law enforcement and intelligence officers; tripled the number of DHS intelligence analysts working along the Southwest Border (SWB); and increased U.S. Immigration and Customs Enforcement attaché staff in Mexico in support of Mexican law enforcement efforts.

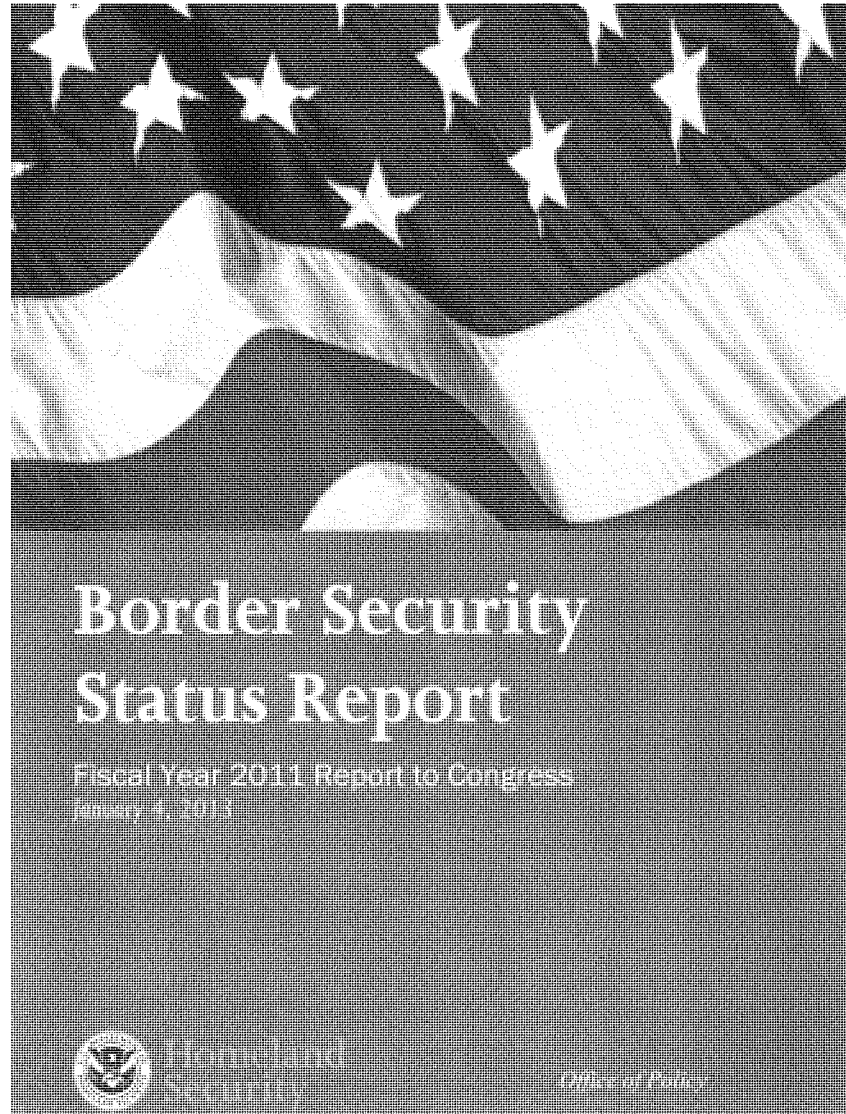
Additionally, the Department's efforts to secure the Southwest Border against transnational criminal organizations and the illicit smuggling and trafficking of guns, drugs, and people, are guided by several strategic processes that are coordinated with partners at the federal, state, and local level, and with our counterparts in the Government of Mexico (GOM). One such strategy is the *National Southwest Border Counternarcotics Strategy* which is updated every two years. The 2011 version of this document maintains the strategy's strong focus on stemming the flow of illegal drugs, weapons, and bulk currency between the U.S. and Mexico, but it also includes a "Strong Communities" chapter that covers federal agencies working with border communities to enhance prevention and drug treatment assistance.

Finally, U.S. Customs and Border Protection (CBP) completed the planning efforts to expand the Arizona Border Surveillance Technology Plan across the SWB. Upon completion of the SBInet Analysis of Alternatives (AoA) for the SWB, the Office of Border Patrol (OBP) conducted an Operational Assessment, taking in the results of the AoA, as well as their detailed knowledge of their sectors, existing threats, existing technology, and infrastructure, Concept of Operations, results of SBInet early operations, and OBP Interagency Agreement to create the detailed technology plans. These plans provide a baseline set of requirements from among a menu of options: small to large, inexpensive to expensive, and fixed to mobile, that Border Patrol identified to support its surveillance and interdiction mission along the border.

<b>Question#:</b>	12
<b>Topic:</b>	Border Security status report
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** When was the last Quarterly Border Security Status report released by DHS? How many of these status reports have DHS released in the past two years? Please provide a copy of the most recent report to us.

**Response:** The Fiscal Year 2012 Border Security Status Report (BSSR) was released to Congress on August 22, 2013 (attached). The FY 2011 BSSR was released to Congress on January 4, 2013. The FY 2011 BSSR was the first report issued by the Office of Policy and is the successor to the Secure Border Initiative (SBI) Report, which was last released in March 2011 and included data through 2010.





## Message from the Under Secretary for Management

January 4, 2013

I am pleased to present the following "Border Security Status Report" (BSSR), prepared by the Office of Policy for Fiscal Year (FY) 2011.

The report has been compiled pursuant to the Joint Explanatory Statement accompanying the *FY 2012 Department of Homeland Security (DHS) Appropriations Act* (P.L. 112-74). This first BSSR replaces the Secure Border Initiative (SBI) report, which, when last issued, presented data through FY 2010.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable John R. Carter  
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable David E. Price  
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Mary L. Landrieu  
Chairman, Senate Appropriations Subcommittee on Homeland Security

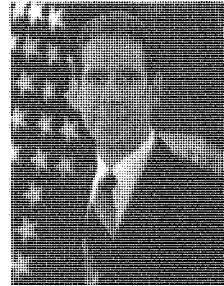
The Honorable Daniel Coats  
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries relating to this report may be directed to me at (202) 447-3400 or to the Department's Chief Financial Officer, Peggy Sherry, at (202) 447-5751.

Sincerely,



Rafael Borras  
Under Secretary for Management



## Executive Summary

DHS secures our Nation's air, land, and sea borders to prevent illegal activity while facilitating lawful travel and trade. The Department's border security and management efforts focus on three interrelated goals: effectively securing U.S. air, land, and sea borders; safeguarding and streamlining lawful trade and travel; and disrupting and, in coordination with other federal agencies, dismantling transnational criminal and terrorist organizations.

Through the unprecedented deployment of personnel, technology, and infrastructure, the U.S. border has never been more secure. With more boots on the ground than ever before and the use of enhanced technology, apprehensions are at their lowest levels since 1971. The integration of intelligence and enforcement capabilities through intergovernmental task forces and partnerships have facilitated better information sharing leading to the increased interdiction of drugs, weapons, and currency. By focusing on the highest threats and rapidly responding, DHS has strengthened security across all U.S. borders while simultaneously facilitating international travel and trade.

FY 2011 highlights:

- The number of U.S. Customs and Border Protection (CBP) Border Patrol (BP) apprehensions declined from 1,189,000 in 2005 to 340,000 in 2011. Border apprehensions in 2011 were at their lowest level since 1971 (Figure 1).
- Administrative arrests by U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) officers totaled 285,000 in 2011 (Figure 3), which is consistent with recent years. Most of these arrests were of criminal offenders identified through the Criminal Alien Program (CAP).
- The number of aliens arriving at ports of entry who were identified as inadmissible by CBP Office of Field Operations (OFO) decreased 7 percent from 229,000 in 2010 to 212,000 in 2011 (Figure 4).
- The number of unique individuals apprehended by CBP BP decreased from 800,000 in 2005 to 260,000 in FY 2011 (Figure 5).
- Legal entries to the United States by U.S. citizens and non-U.S. citizens have decreased since 2004 and reached a low of 340 million in 2011 (Figure 13 and Table 3).
- The number of aliens returned to their home country declined for the seventh consecutive year to 323,452 in 2011 primarily because of decreases in Southwest border apprehensions (Figure 17).

This BSSR is the first issued by the Office of Policy and provides selected statistical data through 2011<sup>1</sup> on DHS efforts to secure our Nation's borders. The data included in this report were provided by ICE, CBP, and U.S. Citizenship and Immigration Services (USCIS) and may differ from data reported by each Component because of differences in data compilation or

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<sup>1</sup> Years refer to fiscal years (October 1 to September 30).

reporting practices. The BSSR is the successor to the SBI report and will be issued quarterly with updated data 90 days after the end of a quarter.

The report includes figures and tables on the following topics:

- Apprehensions, Administrative Arrests, and Inadmissible Aliens
- Notices to Appear (NTAs)
- Criminal Arrests
- Legal Entries
- Detention
- Removals and Returns
- Worksite Enforcement (WSE) and E-Verify
- Seizures – Drugs, Weapons, and Currency
- CBP Staffing
- Violence Against CBP Agents and Officers
- Operation Stonegarden Grants



## Border Security Status Report Fiscal Year 2011

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## I. Legislative Requirement

This report is submitted pursuant to the Joint Explanatory Statement accompanying the *FY 2012 DHS Appropriations Act* (P.L. 112-74).

The Joint Explanatory Statement includes the following provision:

The Department is directed to continue submitting the quarterly Secure Border Initiative (SBI) reports, now to be called the Border Security Status Report. The new reports shall continue to include all performance metrics and resource data from past reports in their current format, with the exception that they no longer should include resource data on SBI total budget obligations and outlays and budget execution reports. That information already is contained in the annual Border Security Fencing, Infrastructure, and Technology expenditure plan. Additionally, the Department shall include the following in the report: (a) estimates of the impact of programs (such as Operation Streamline) that are intended to reduce the rate of recidivism of illegal border crossers; (b) for ports of entry, the maritime domain, and between the ports of entry: (1) estimates of total attempted border crossings; (2) the rate of apprehension of attempted border crossings; and (3) the inflow into the United States of illegal entrants that evade apprehension; and (c) data on the subsequent enforcement actions associated with Customs and Border Protection (CBP) apprehensions, such as voluntary return, expedited removal, transfer to Immigration and Customs Enforcement (ICE) custody, transfer for criminal prosecution, Mexican Interior Repatriation Program, and other categories necessary to provide an accurate accounting of such actions.

## II. Background

### A. Overview of Congressional Mandate

This is the first submission of the BSSR and includes data through the end of FY 2011. The BSSR is a revised version of the SBI report, which was last released with data through FY 2010. As discussed with committee staff members on April 4, 2012, the next report will include data through the first two quarters of FY 2012. The BSSR will then be updated quarterly and released 90 days after the end of each quarter.

The first border security report was submitted in 2006 in response to a letter from the House Appropriations Committee. The data series included in the BSSR overlaps with many of those in prior SBI reports; however, the BSSR excludes detailed program descriptions, accomplishments, and resource information. The list of data series provided in this report was reviewed with committee staff and is described in Section B. The Joint Explanatory Statement accompanying P.L. 112-74 and committee staff added new reporting requirements that are described in Section C. These items will be added to future reports as they become available.

### B. Data Presented

There are 23 figures and 13 tables in the body of the report and 29 tables in the appendix. This report provides data on the following categories of border security and immigration enforcement:

- Apprehensions, Administrative Arrests, and Inadmissible Aliens
- NTAs
- Criminal Arrests
- Legal Entries
- Detention
- Removals and Returns
- WSE and E-Verify
- Seizures – Drugs, Weapons, and Currency
- CBP Staffing
- Violence against CBP Agents and Officers
- Operation Stonegarden Grants

### C. Outstanding Requests

The additional data and analyses requested by the Committee in the Joint Explanatory Statement are not currently available; DHS will provide updates in future BSSRs.



### III. Results/Analysis

#### A. Data Trends

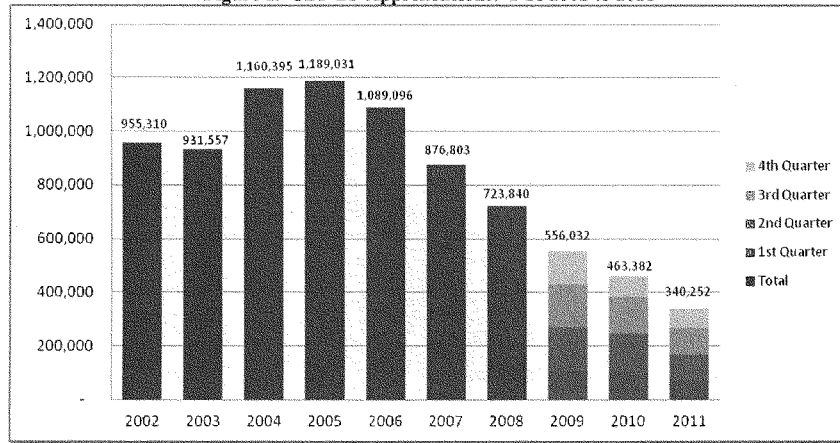
- The number of CBP BP apprehensions declined from 1,189,000 in 2005 to 340,000 in 2011. Border apprehensions in 2011 were at their lowest level since 1971 (Figure 1).
- The number of unique individuals apprehended by CBP BP decreased from 800,000 in 2005 to 260,000 in FY 2011. These totals count only the first apprehension of an alien during any fiscal year and exclude children under 14 years old (Figure 6).
- Administrative arrests by ICE ERO officers totaled 285,000 in 2011 (Figure 3), which is consistent with recent years. Most of these arrests were of convicted criminal offenders identified through CAP.
- Legal entries to the United States by U.S. citizens and non-U.S. citizens have decreased since 2004 and reached a low of 340 million in 2011 (Figure 13 and Table 3).
- The number of aliens arriving at ports of entry who were identified as inadmissible by CBP OFO decreased 7 percent from 229,000 in 2010 to 212,000 in 2011 (Figure 4).
- The number of aliens placed in detention increased 18 percent from 363,000 in 2010 to 429,000 in 2011 (Figure 14).
- The average daily detention population increased from 30,900 in 2010 to 33,300 in 2011 (Figure 15).
- The number of removals increased from 385,100 in 2010 to 391,953 in 2011 (Figure 17).
- The number of aliens returned to their home country declined for the seventh consecutive year to 323,452 in 2011 primarily because of decreases in Southwest border apprehensions (Figure 17).

The figures and tables in this section include notes about the data sources and, when applicable, descriptions of changes in definitions over time or in data compared to past reports. Quarterly data for FYs 2009–2011, when not included in the Results/Analysis section, are provided in Appendix C., Quarterly Data Tables. The data included in this report were provided by ICE, CBP, and USCIS and may differ from data reported by each Component because of differences in data compilation or reporting practices.

B. Apprehensions, Administrative Arrests, and Inadmissible Aliens<sup>2</sup> (Figures 1–4 and Tables 1–2)

Nationwide, BP apprehensions are at their lowest levels since 1971, indicating that fewer people are attempting to illegally cross the border. DHS matched the overall decreases in apprehensions with increases in the seizure of illegal currency, drugs, and weapons along the Southwest border.<sup>3</sup> ICE ERO administrative arrests mostly included criminal offenders identified under CAP.

Figure 1. CBP BP Apprehensions: FYs 2002 to 2011



Source: DHS, CBP BP, Performance Analysis System, Enforcement Integrated Database, December 2011. See Appendix Table B1 for quarterly totals.

<sup>2</sup> An administrative arrest refers to the arrest of an alien who is charged with an immigration violation under a provision of the Immigration and Nationality Act pursuant to Sections 212 or 237. Administrative arrests conducted by BP traditionally have been referred to as apprehensions, and this convention is used in the following BP charts and tables. Administrative arrest data are provided for CBP BP, ICE HSI, and ICE ERO. Some administrative arrests may be reported by more than one Component/program. The Department plans to eliminate any duplication in future BSSR reporting; therefore, these totals may change in the future.

<sup>3</sup> See Section J.

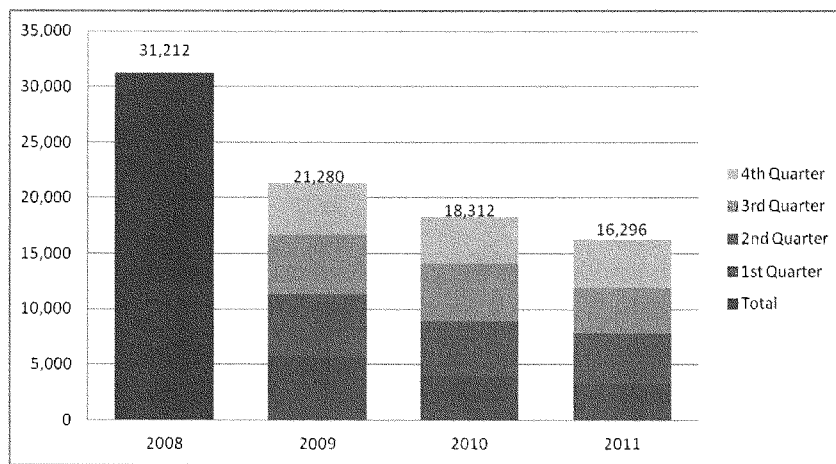
Table 1. CBP BP Apprehensions by Sector: FYs 2002 to 2011

<i>BP sector</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
<b>Total Apprehensions</b>	<b>955,310</b>	<b>931,557</b>	<b>1,160,395</b>	<b>1,189,031</b>	<b>1,089,096</b>	<b>876,803</b>	<b>723,840</b>	<b>556,032</b>	<b>463,382</b>	<b>340,252</b>
Blaine, Washington	1,732	1,380	1,354	1,000	809	749	951	844	673	591
Buffalo, New York	1,102	564	671	406	1,518	2,190	3,338	2,672	2,422	2,114
Del Rio, Texas	66,985	50,145	53,794	68,504	42,630	22,919	20,761	17,082	14,694	16,144
Detroit, Michigan	1,511	2,345	1,912	1,793	1,282	902	961	1,157	1,669	1,531
EL Centro, California	108,273	92,099	74,467	55,790	61,457	55,882	40,962	33,520	32,562	30,191
EL Paso, Texas	94,154	88,816	104,399	122,691	122,264	75,464	30,310	14,998	12,251	10,345
Grand Forks, North Dakota	1,369	1,223	1,225	754	517	500	542	472	543	468
Havre, Montana	1,463	1,406	986	948	567	486	427	283	290	270
Houlton, Maine	432	292	263	233	175	95	81	60	56	41
Laredo, Texas	82,095	70,521	74,706	75,330	74,845	56,716	43,659	40,571	35,287	36,053
Livermore, California <sup>1</sup>	4,371	3,565	1,850	X	X	X	X	X	X	X
Marfa, Texas	11,392	10,319	10,530	10,536	7,520	5,537	5,390	6,357	5,288	4,036
Miami, Florida	5,143	5,931	4,602	7,243	6,033	7,121	6,020	4,429	4,651	4,401
New Orleans, Louisiana	4,665	5,151	2,889	1,358	3,053	4,018	4,303	3,527	3,171	1,509
Ramey, Puerto Rico	835	1,688	1,813	1,619	1,435	548	572	418	398	642
Rio Grande Valley, Texas	89,927	77,749	92,947	134,161	110,520	73,429	75,476	60,992	59,766	59,243
San Diego, California	100,681	111,515	138,608	126,915	142,110	152,464	162,392	118,712	68,565	42,447
Spokane, Washington	1,142	992	847	279	184	338	340	277	356	293
Swanton, Vermont	1,736	1,955	2,701	1,936	1,544	1,119	1,283	1,042	1,422	815
Tucson, Arizona	333,648	347,263	491,771	439,105	392,101	378,332	317,709	241,667	212,202	123,285
Yuma, Arizona	42,654	56,638	98,060	138,430	118,532	37,994	8,363	6,952	7,116	5,833

<sup>1</sup> Livermore sector closed August 31, 2004.

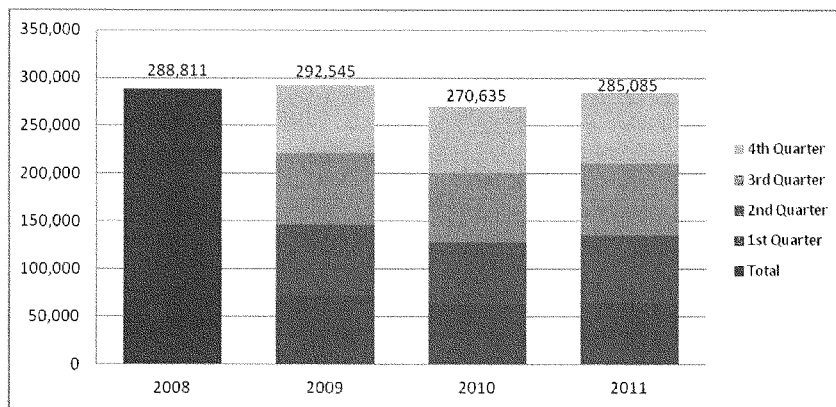
Source: DHS, CBP BP, Performance Analysis System, Enforcement Integrated Database, December 2011. See Appendix Table B1 for quarterly totals.

**Figure 2. ICE Homeland Security Investigations (HSI) Administrative Arrests: FYs 2008 to 2011**



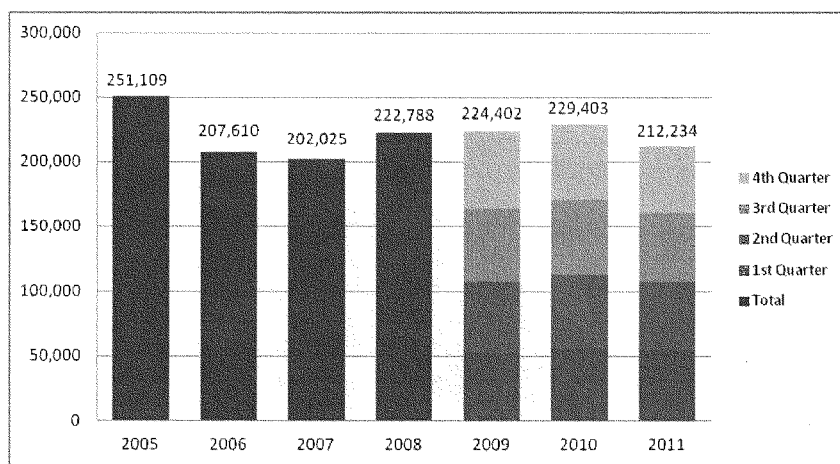
Source: DHS, ICE, HSI Treasury Enforcement Communication System, and Seized Asset and Case Tracking System, June 2012. See Appendix Table B2 for quarterly totals.

**Figure 3. ICE ERO Administrative Arrests: FYs 2008 to 2011**



Note: Many of the aliens arrested by ERO were formerly incarcerated in federal, state, and local prisons and jails. They are identified, processed, and prepared for removal under CAP. Does not include aliens identified and removed/returned under the 287(g) program.

Source: DHS, ICE Integrated Decision Support, May 2012. See Appendix Table B3 for quarterly totals.

**Figure 4. Aliens Found Inadmissible by CBP OFO: FYs 2005 to 2011**

Note: Data include all aliens seeking admission at a port of entry found inadmissible, including those turned away at a port of entry or conditionally permitted to enter the United States. Prior SBI reports only included those not allowed to enter the United States. Before April 2008, data did not include all crew members detained on board vessels.

Source: DHS, CBP OFO, Enforcement Integrated Database, December 2011. See Appendix Table B4 for quarterly totals.

**Table 2. Arriving Aliens Found Inadmissible by Field Office: FYs 2005 to 2011**

<i>Field office</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
<b>Total</b>	<b>251,109</b>	<b>207,610</b>	<b>202,025</b>	<b>222,788</b>	<b>224,402</b>	<b>229,403</b>	<b>212,234</b>
Atlanta, Georgia	6,175	4,254	3,905	7,529	8,020	9,163	8,726
Baltimore, Maryland	4,054	2,039	2,006	2,231	2,435	2,775	3,108
Boston, Massachusetts	4,091	3,045	3,347	4,087	4,658	4,716	5,203
Buffalo, New York	49,655	37,488	28,945	21,369	18,724	17,763	15,712
Chicago, Illinois	6,201	3,675	2,874	3,599	3,551	3,219	2,553
Detroit, Michigan	11,844	10,403	8,546	7,748	7,441	7,398	7,208
El Paso, Texas	9,689	8,713	8,370	7,912	7,729	7,898	6,909
Houston, Texas	4,426	3,512	3,641	12,061	16,455	18,963	19,528
Laredo, Texas	32,576	30,686	30,765	26,635	21,919	24,441	25,790
Los Angeles, California	8,526	4,372	6,962	12,148	11,754	8,556	6,692
Miami, Florida	13,069	8,085	6,842	7,765	7,057	9,161	6,896
New Orleans, Louisiana	162	182	331	12,293	18,172	19,162	20,855
New York, New York	14,990	6,113	5,723	6,834	11,283	9,918	6,892
Portland, Oregon	620	576	1,117	1,401	989	899	1,892
Pre-Clearance <sup>1</sup>	8,338	10,922	10,613	8,388	7,889	9,539	8,586
San Diego, California	45,552	47,932	49,456	47,125	42,127	40,014	33,719
San Francisco, California	4,910	2,914	3,418	7,305	6,893	6,279	6,954
San Juan, Puerto Rico	2,008	1,501	2,674	4,247	4,767	5,458	2,927
Seattle, Washington	11,383	10,338	10,605	10,867	9,122	10,738	10,650
Tampa, Florida	2,008	1,260	3,396	3,778	4,515	4,099	3,142
Tucson, Arizona	10,531	9,450	8,268	7,110	8,387	8,735	7,951
Unknown office	301	150	221	356	515	509	341

Note: Data include all aliens seeking admission at a port of entry found inadmissible, including those turned away at a port of entry or conditionally permitted to enter the United States. Prior SBI reports only included those not allowed to enter the United States. Before April 2008, data did not include all crew members detained on board vessels.

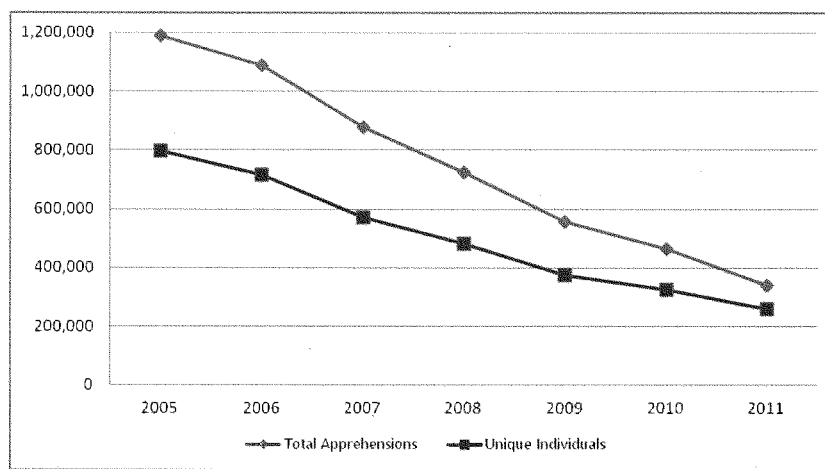
<sup>1</sup> Refers to field offices abroad.

Source: DHS, CBP OFO, Enforcement Integrated Database, December 2011. See Appendix Table B4 for quarterly totals.

### C. Unique Individuals Apprehended by CBP BP (Figure 5)

With the Automated Biometric Identification System (IDENT), fingerprint records can be matched, thus making it possible to count both the unique number of individuals apprehended and the total number of apprehensions (see Figure 5).

**Figure 5. Apprehensions from IDENT by CBP BP: FYs 2005 to 2011**

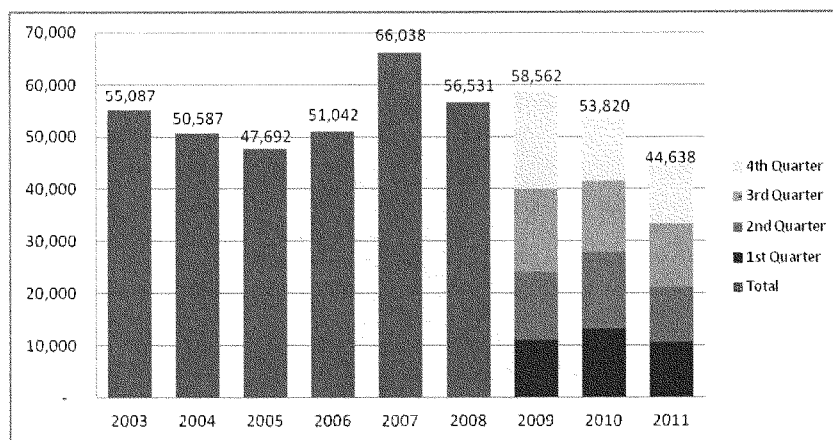


Source: DHS, CBP BP, Enforcement Integrated Database, December 2011.

D. Notices to Appear Issued (Figures 6–8) and USCIS Fraud Cases Referred to ICE (Figure 9)

NTAs order aliens to appear at a removal proceeding before an immigration judge. NTAs issued by USCIS, CBP BP, and CBP OFO are included in this section, as well as the number of applications referred to ICE for investigation under suspicion of fraud by USCIS.

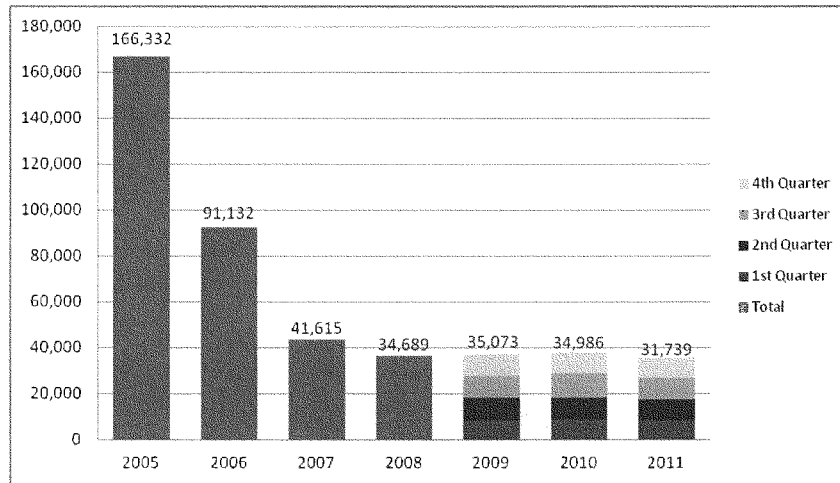
**Figure 6. NTAs Issued by USCIS: FYs 2003 to 2011**



Note: Data from 2003 to 2008 include I-860 expedited removal notices issued in connection with credible fear adjudications even if not resulting in a NTA. Data for 2009 to 2011 only refer to I-862 NTAs.

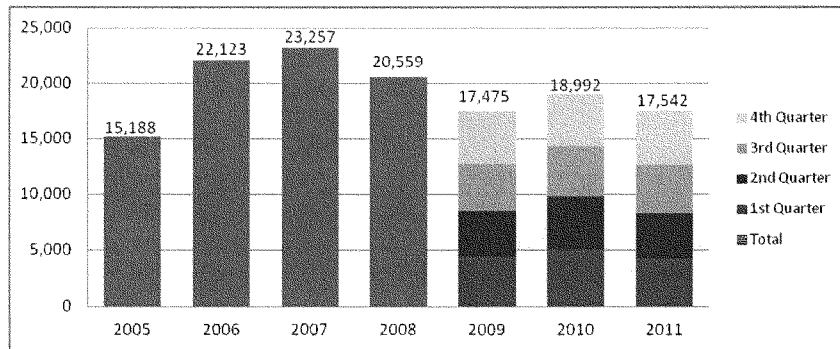
Source: DHS, USCIS Performance Analysis System; Performance Reporting Tool; and Refugee, Asylum, and Parole System, May 2012. See Appendix Table D1 for quarterly totals.



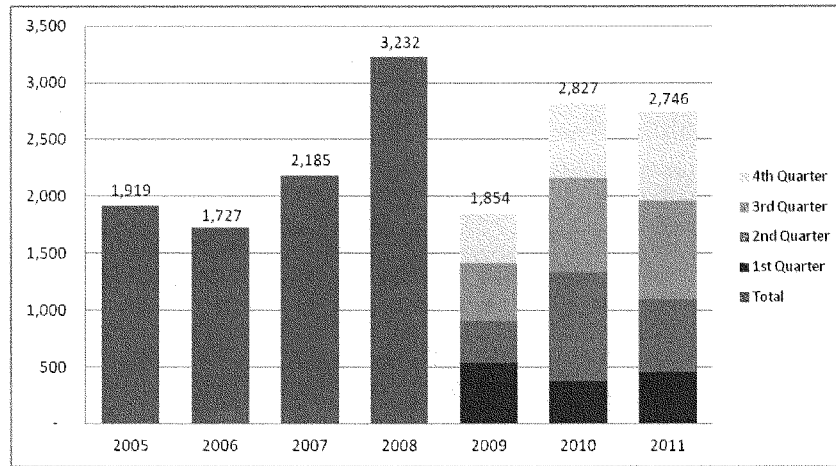
**Figure 7. NTAs Issued by CBP BP: FYs 2005 to 2011**

Note: NTA totals were elevated in 2005 and 2006 because of a surge in apprehensions of Brazilians and Central Americans. Apprehensions and NTAs decreased over time as the practice of "Catch and Release" ended.

Source: DHS, CBP BP, Enforcement Integrated Database, December 2011. See Appendix Table D2 for quarterly totals.

**Figure 8. NTAs Issued by CBP OFO: FYs 2005 to 2011**

Source: DHS, CBP OFO, Enforcement Integrated Database, December 2011. See Appendix Table D3 for quarterly totals.

**Figure 9. USCIS Fraud Cases Referred to ICE: FYs 2005 to 2011**

Note: Data shown represent the number of benefit applications filed with USCIS that were subsequently referred to ICE under suspicion of fraud by USCIS's Fraud Detection and National Security office.

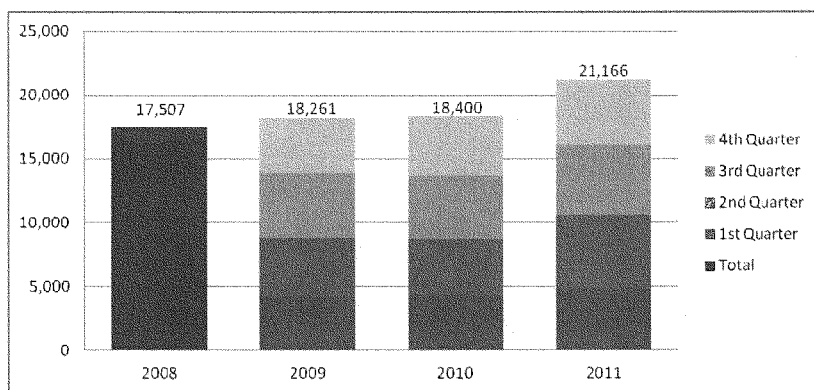
Source: DHS, USCIS Fraud Detection and National Security Data System, May 2012. See Appendix Table D4 for quarterly totals.

### E. Criminal Arrests (Figures 10–12)

Criminal arrests refer to individuals (both aliens and U.S. citizens) who are arrested for violation of a federal and/or a state criminal code. Criminal arrests may be for felony or misdemeanor charges.

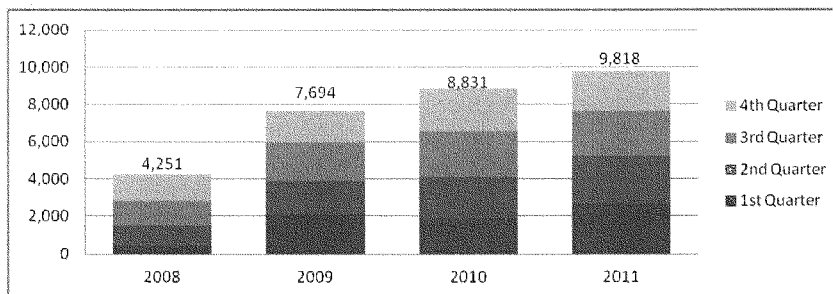
Criminal arrest data are provided for ICE HSI, ICE ERO, and CBP OFO.

**Figure 10. ICE HSI Criminal Arrests: FYs 2008 to 2011**



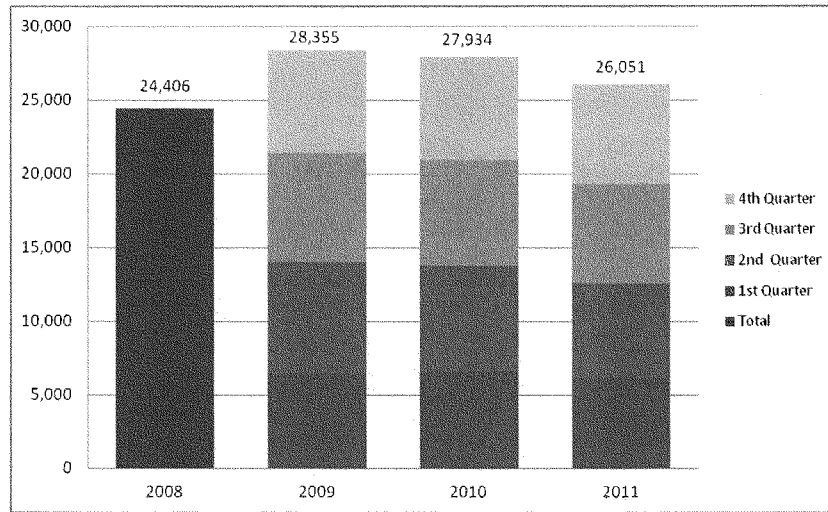
Source: DHS, ICE, HSI Treasury Enforcement Communication System, and Seized Asset and Case Tracking System, June 2012. See Appendix Table E1 for quarterly totals.

**Figure 11. ICE ERO Criminal Arrests: FYs 2008 to 2011**



Source: DHS, ICE ERO, Treasury Enforcement Communication System, and Seized Asset and Case Tracking System, June 2012. See Appendix Table E2 for quarterly totals.

Figure 12. CBP OFO Criminal Arrests: FYs 2008 to 2011



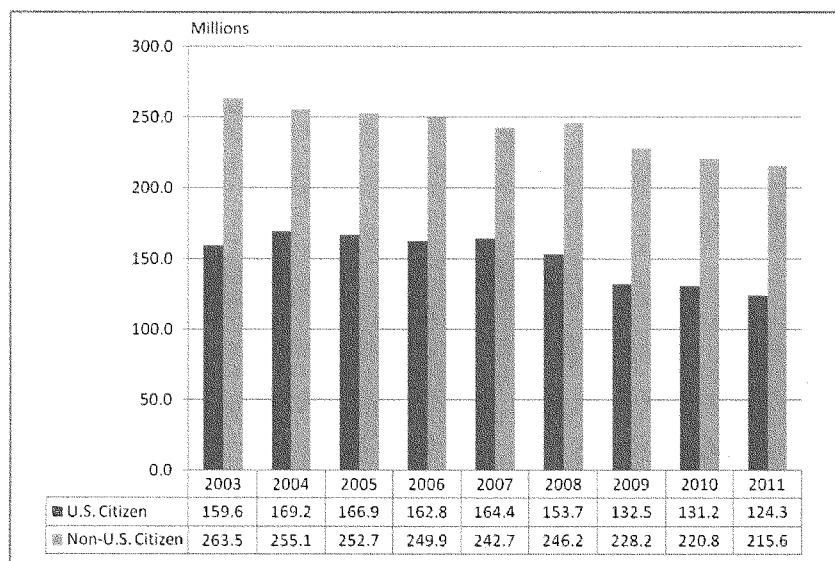
Note: Criminal arrests at the ports of entry may be for narcotics violations and seizures (e.g., unlawful possession and/or smuggling of narcotics), immigration-related prosecutable violations (e.g., reentry after removal, alien smuggling, etc.), and any other crime involving prohibited items or commodities. The number of OFO criminal arrests reported in previous SBI reports incorrectly included some records of inadmissible aliens that were not subject to criminal charges.

Source: DHS, CBP OFO, Treasury Enforcement Communication System, and Seized Asset and Case Tracking System, May 2012. See Appendix Table E3 for quarterly totals.

# F. Legal Entries (Figure 13 and Table 3)

Legal entries refer to the number of entrances of U.S. citizens and non-citizens into the United States. Individual U.S. citizens and non-citizens may be counted more than once during a reporting period. Individuals denied entry at air, land, or sea ports are excluded from these data.

**Figure 13. Legal Entries of Citizens and Non-Citizens: FYs 2003 to 2011**



Note: Numbers are rounded to millions.

Source: DHS, CBP OFO, Operation Management Reporting. Data from 2003 to 2006 are from the 2010 SBI Report; data from 2007 are current as of February 2009; data from 2008 are current as of July 2009; data from 2009 are current as of January 2010; data from 2010 are current as of October 2010; and data from 2011 are current as of December 2011. See Appendix Table F1 for quarterly totals.

Non-citizen entries decreased from 246.2 million in 2008 to 215.6 million in 2011, with nearly all of the decreases occurring at land ports.<sup>4</sup> Entries of U.S. citizens have also declined and totaled 124.3 million in 2011.

<sup>4</sup> The annual number of international visitors, a subset of non-citizen entries, has generally been increasing since 2003 and reached an all-time high of 62.3 million in 2011 ([www.tinet.ita.doc.gov/view/F-2000-99-001/forecast/arrivals.pdf](http://www.tinet.ita.doc.gov/view/F-2000-99-001/forecast/arrivals.pdf)). Non-citizen entrants who are not counted as visitors include: persons who usually reside in the United States (e.g., lawful permanent residents or persons intending to stay in the United States for more than 1 year), persons staying in the United States for less than 1 day, and persons remunerated in the United States.

**Table 3. Legal Entries to the United States by Citizens and Non-Citizens by CBP OFO**  
**Field Office: FYs 2003 to 2011**

<i>Field Office</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
<b>Total</b>	<b>423.1</b>	<b>424.3</b>	<b>419.7</b>	<b>412.7</b>	<b>407.1</b>	<b>399.9</b>	<b>360.7</b>	<b>352.0</b>	<b>340.0</b>
Atlanta, Georgia	3.4	4.1	4.5	5.0	5.4	5.9	5.7	5.9	6.2
Baltimore, Maryland	4.0	4.6	4.6	4.6	4.9	5.2	5.2	5.4	5.6
Boston, Massachusetts	12.6	12.6	13.1	12.9	10.7	11.4	10.0	10.5	10.3
Buffalo, New York	25.6	26.1	24.7	24.6	24.5	24.3	21.3	21.2	22.1
Chicago, Illinois	5.3	6.2	6.8	6.8	6.9	6.8	5.9	6.0	6.0
Detroit, Michigan	24.2	23.6	22.5	22.0	21.1	19.9	16.4	16.6	17.2
El Paso, Texas	41.7	42.4	43.0	42.4	39.6	37.5	33.9	32.1	26.6
Houston, Texas	5.2	6.0	6.9	7.4	7.5	7.3	7.0	7.4	7.9
Laredo, Texas	89.8	83.4	79.2	76.5	74.7	74.5	68.0	59.6	49.9
Los Angeles, California	8.2	10.3	10.2	10.3	10.4	10.5	9.0	9.5	9.7
Miami, Florida	12.3	14.0	13.0	12.9	13.7	14.4	14.4	15.4	16.5
New Orleans, Louisiana	0.8	0.8	1.2	0.5	1.0	1.0	0.9	1.0	1.1
New York, New York	12.5	13.8	15.2	16.0	17.3	18.5	17.5	18.4	18.8
Portland, Oregon	1.1	2.3	2.2	2.2	2.4	2.4	2.0	1.8	1.8
Pre-Clearance	13.1	13.0	13.7	14.1	15.3	15.0	14.2	13.5	14.9
San Diego, California	93.4	89.3	86.0	83.0	79.7	73.8	65.7	63.2	62.5
San Francisco, California	6.9	8.3	8.6	8.4	8.5	8.5	7.8	8.5	8.7
San Juan, Puerto Rico	3.3	4.5	4.9	5.0	5.4	5.4	4.3	4.8	4.7
Seattle, Washington	21.0	20.3	20.4	20.8	20.7	21.8	19.8	22.7	23.4
Tampa, Florida	3.2	3.7	4.1	4.3	4.2	4.0	4.1	4.2	4.5
Tucson, Arizona	35.4	34.9	34.8	33.1	33.0	31.8	27.6	24.3	21.6

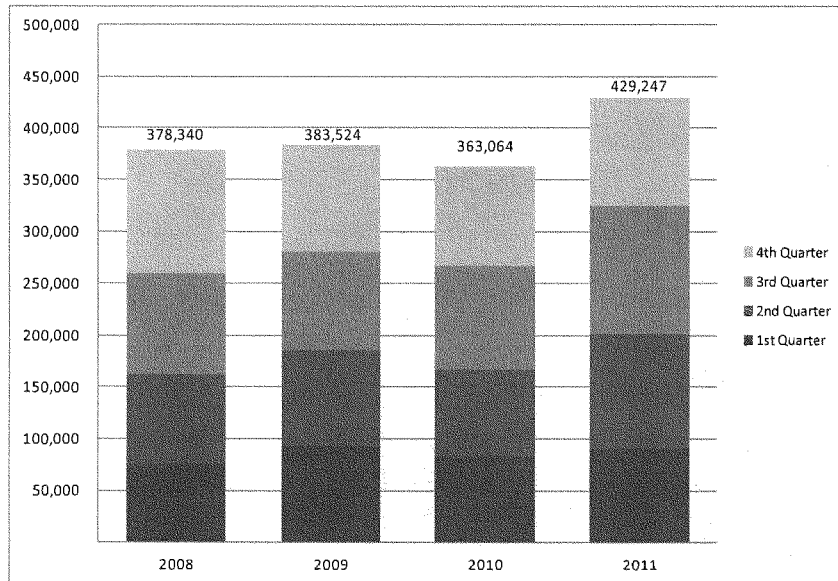
Note: Numbers are rounded to millions.

Source: DHS, CBP OFO, Operation Management Reporting. Data from 2003 to 2006 are from the 2010 SBI Report; data from 2007 are current as of February 2009; data from 2008 are current as of July 2009; data from 2009 are current as of January 2010; data from 2010 are current as of October 2010; and data from 2011 are current as of December 2011. See Appendix Table F2 for quarterly totals.

G. Detention (Figures 14–16 and Tables 4–6)

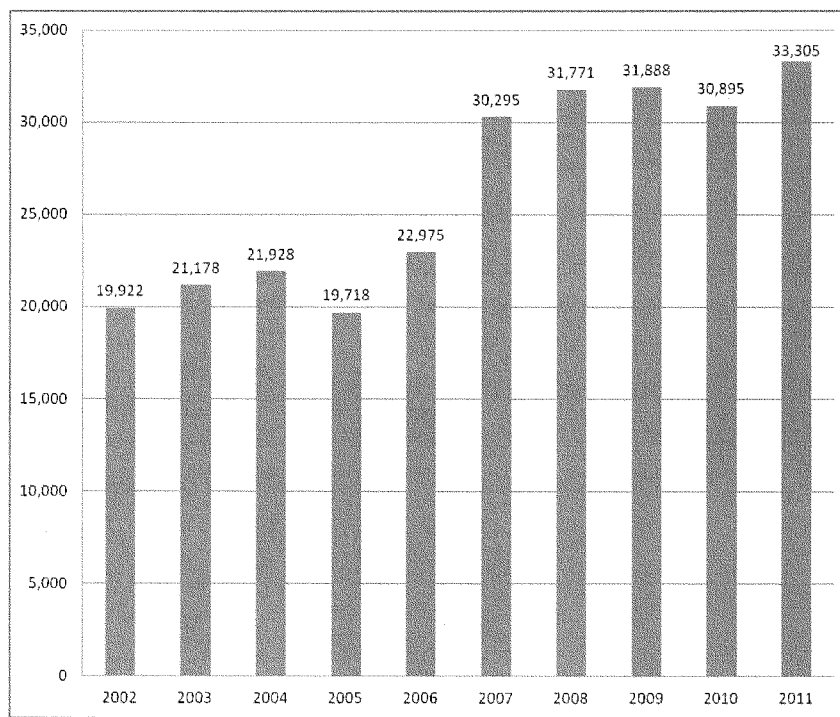
Removable aliens who are apprehended by ICE and CBP, or referred by USCIS, and who are determined to need custodial supervision, are placed in detention facilities that are managed by ICE ERO. Aliens detained by ICE are housed in local or state facilities, contract detention facilities, ICE-owned facilities (service processing centers), and Bureau of Prisons facilities.

**Figure 14. Initial Admissions to ICE Detention Facilities: FYs 2008 to 2011**



Note: Initial admissions refer to the number of individuals whose initial placement into a detention facility began within the reporting period. These totals may include aliens currently in ICE detention. Beginning in 2010, data exclude detainees in ICE custody held in facilities dedicated to housing aliens in the Mexican Interior Repatriation Program and Office of Refugee and Resettlement.

Source: DHS, ICE Integrated Decision Support, June 2012; Mexican Interior Repatriation Program (MIRP) data as of August 2012. See Appendix Table G1 for quarterly totals. MIRP data for initial admissions can be found in Appendix G2.

**Figure 15. Average Daily Population (ADP) of Aliens in ICE Detention: FYs 2002 to 2011**

Note: ADP is provided in place of funded beds as it more accurately reflects the status of facility capacity and utilization. ADP is based on the total number of midnight count bed space used divided by the number of days in the requested period of time. Beginning in 2010, data exclude detainees in ICE custody held in facilities dedicated to housing aliens in the Mexican Interior Repatriation Program and Office of Refugee and Resettlement because ICE does not fund them.

Source: DHS, ICE Integrated Decision Support, May 2012. See Appendix Table G3 for quarterly totals.



Table 4 lists the ADP of aliens detained in intergovernmental service agreement (IGSA) facilities in 2011 by state.

**Table 4. Average Daily Population of Aliens Detained in Intergovernmental Service Agreement Facilities by State: FY 2011**

<i>State</i>	<i>Short-term Facilities</i>	<i>Long-term Facilities</i>	<i>Total Average Daily Pop.</i>	<i>State</i>	<i>Short-term Facilities</i>	<i>Long-term Facilities</i>	<i>Total Average Daily Pop.</i>
<b>Total</b>	<b>341</b>	<b>22,674</b>	<b>23,015</b>	Montana	2	1	3
Alabama	3	395	398	Nevada	68	139	207
Alaska	0	2	2	New Hampshire	0	17	17
Arizona	6	2,177	2,183	New Jersey	0	1,351	1,351
Arkansas	12	0	12	New Mexico	0	853	853
California	7	2,682	2,689	New York	0	172	172
Colorado	8	101	109	North Carolina	30	73	102
Connecticut	0	0	0	North Dakota	0	18	18
Delaware	0	0	0	Ohio	0	362	362
District of Columbia	0	0	0	Oklahoma	7	154	162
Florida	4	877	880	Oregon	1	8	9
Georgia	13	2,363	2,376	Pennsylvania	1	1,124	1,125
Hawaii	0	0	0	Rhode Island	0	0	0
Idaho	0	24	24	South Carolina	4	82	86
Illinois	4	598	602	South Dakota	0	0	0
Indiana	6	0	6	Tennessee	0	28	28
Iowa	0	179	179	Texas	64	3,487	3,551
Kansas	0	68	68	Utah	0	262	262
Kentucky	3	150	153	Vermont	0	0	0
Louisiana	0	1,541	1,541	Virginia	0	891	891
Maine	0	6	6	Washington	4	0	4
Maryland	0	310	310	West Virginia	1	3	4
Massachusetts	0	799	799	Wisconsin	0	385	385
Michigan	88	253	341	Wyoming	2	1	3
Minnesota	0	296	296				
Mississippi	0	0	0				
Missouri	0	175	175				

Note: IGSA data include dedicated and non-dedicated IGSA facilities that were inspected by ICE. Short-term facilities accommodate stays of less than 72 hours. Long-term facilities accommodate stays of 72 hours or more.

Source: DHS, ICE Integrated Decision Support, May 2012. See Appendix Table G4 for FYs 2009–2010 totals.

Tables 5 and 6 list the ADP of aliens detained in each DHS Service Processing Center and contract detention facility during 2011.

**Table 5. Average Daily Population of Aliens Detained in Service Processing Centers: FY 2011**

<i>Service Processing Centers</i>	<i>Average Daily Population</i>
<b>Total</b>	<b>3,529</b>
Batavia, New York	529
El Centro, California	405
El Paso, Texas	727
Florence, Arizona	347
Miami, Florida	607
Port Isabel, Texas	914

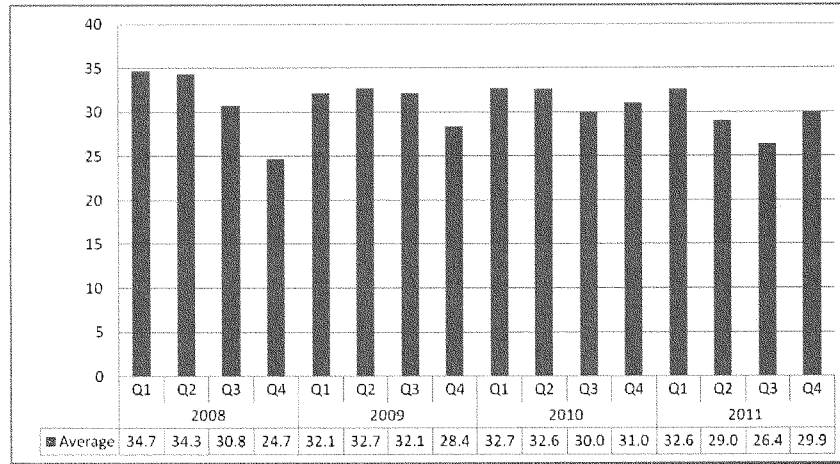
Source: DHS, ICE Integrated Decision Support, May 2012.

**Table 6. Average Daily Population of Aliens Detained in Contract Facilities: FY 2011**

<i>Contract Facilities</i>	<i>Average Daily Population</i>
<b>Total</b>	<b>5,658</b>
Broward Transitional Center, Florida	628
Denver, Colorado	415
Elizabeth, New Jersey	277
Houston, Texas	893
Pearsall, Texas	1,607
San Diego, California	671
Tacoma, Washington	1,167

Source: DHS, ICE, ICE Integrated Decision Support, May 2012.

**Figure 16. Average Length of Stay (in days) for Aliens Released from Detention:  
FYs 2008 to 2011**



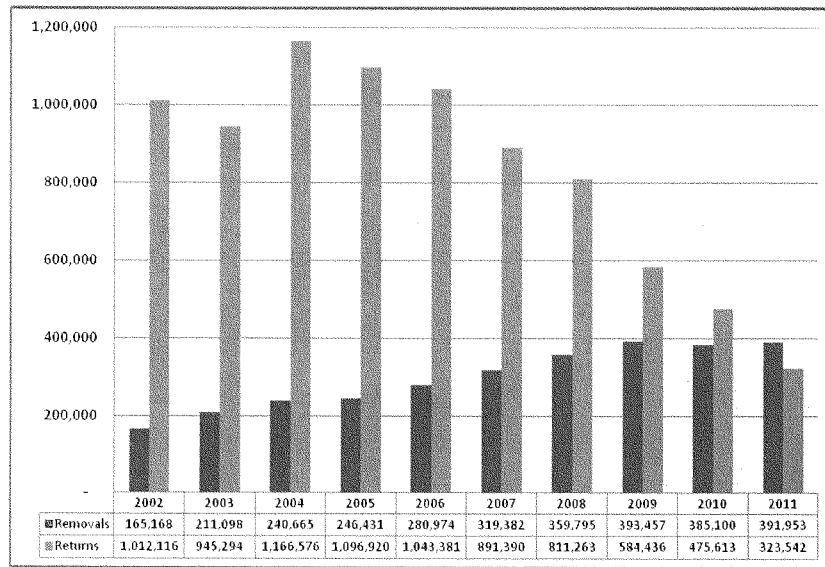
Note: Average length of stay is calculated for all aliens who were released from detention during the reporting period. Lengths of stay for aliens currently in ICE detention are not included in the averages. Beginning in 2010, data exclude detainees in ICE custody held in facilities dedicated to housing aliens in the Mexican Interior Repatriation Program and Office of Refugee and Resettlement.

Source: DHS, Enforcement Case Tracking System (ENFORCE) Alien Detention Module, June 2012.

#### H. Removals and Returns (Figure 17)

Alien removals refer to inadmissible or deportable aliens who have been removed on the basis of an order of removal, whereas alien returns refer to inadmissible or deportable aliens who have been confirmed to have departed the United States without an order of removal. This report includes fiscal year removals effectuated and returns conducted by both ICE and CBP. Removals are the compulsory and confirmed movement of an inadmissible or deportable alien out of the United States based on an order of removal. An alien who is removed has administrative or criminal consequences placed on subsequent reentry owing to the fact of the removal. Returns are the confirmed movement of an inadmissible or deportable alien out of the United States not based on an order of removal. Most of the voluntary returns are of Mexican nationals who have been apprehended by the U.S. BP and are returned to Mexico.

**Figure 17. DHS Removals and Returns: FYs 2002 to 2011**

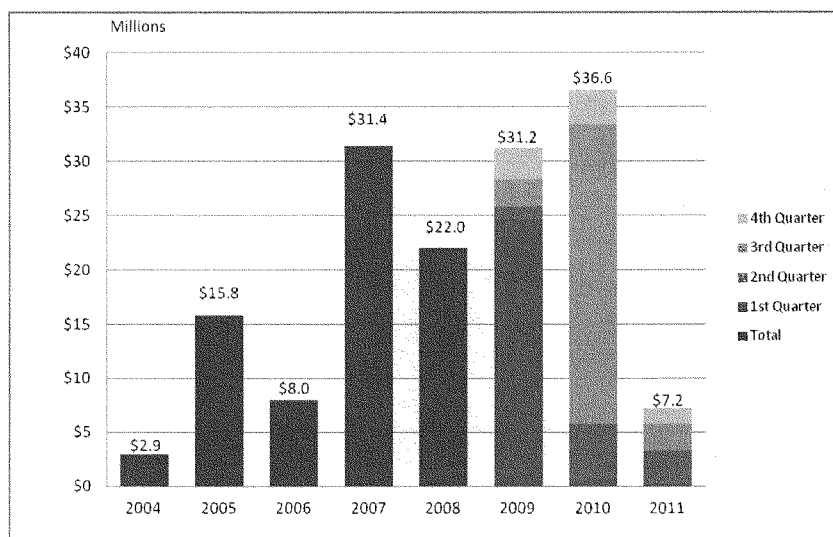


Source: DHS, ENFORCE Alien Removal Module, January 2012 and Enforcement Integrated Database, December 2011. See Appendix Table H1 for quarterly totals.

# I. Worksite Enforcement and E-Verify (Figures 18–22)

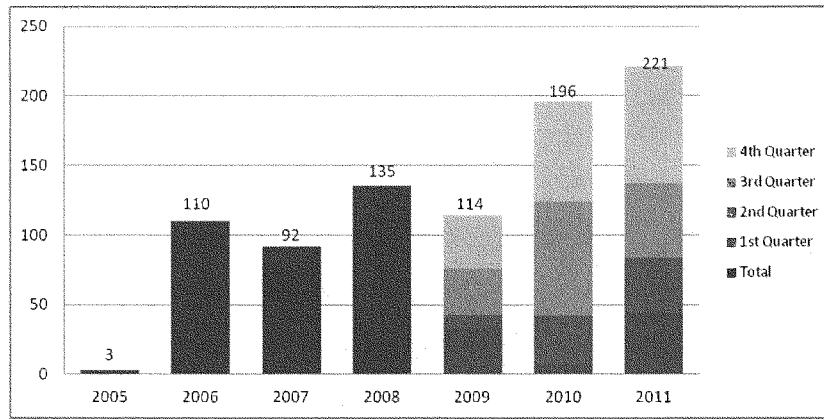
Worksite arrest statistics are shown for employers who may be charged by ICE HSI with violations related to the employment of unauthorized aliens, and employees who may be charged with a variety of crimes including identity theft, fraud, tax violations, or other related crimes. The number of employers registered for E-Verify and the number of queries each year are also provided as follows.

**Figure 18. WSE Judicially Ordered Amount of Fines, Forfeitures, and Restitutions:  
FYs 2004 to 2011**



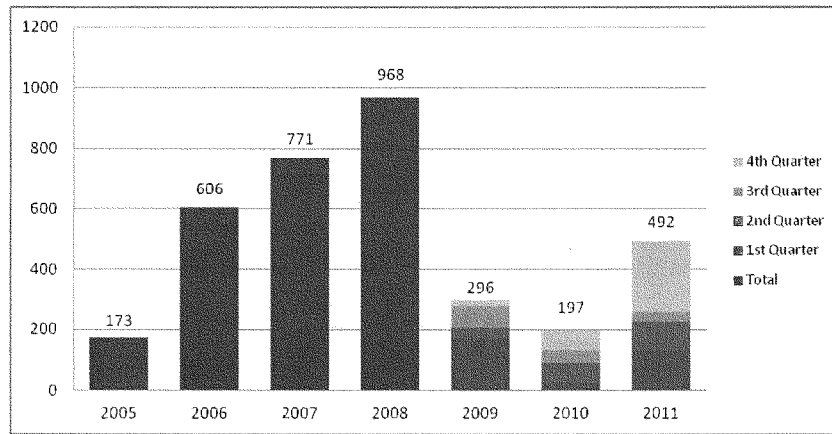
Note: Numbers are rounded to millions.

Source: DHS, ICE, Significant Incident Notification System, May 2012. See Appendix Table I3 for quarterly totals.

**Figure 19. ICE Worksite Arrests—Owners/Employers: FYs 2005 to 2011**

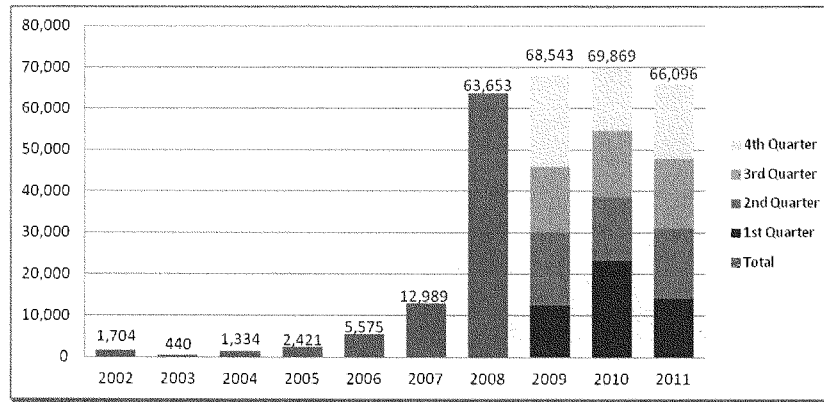
Note: Data are not cumulative and represent the number of arrests made in a given fiscal year.

Source: DHS, ICE, Treasury Enforcement Communication System, May 2012. See Appendix Table I1 for quarterly totals.

**Figure 20. ICE Worksite Arrests—Employees/Other: FYs 2005 to 2011**

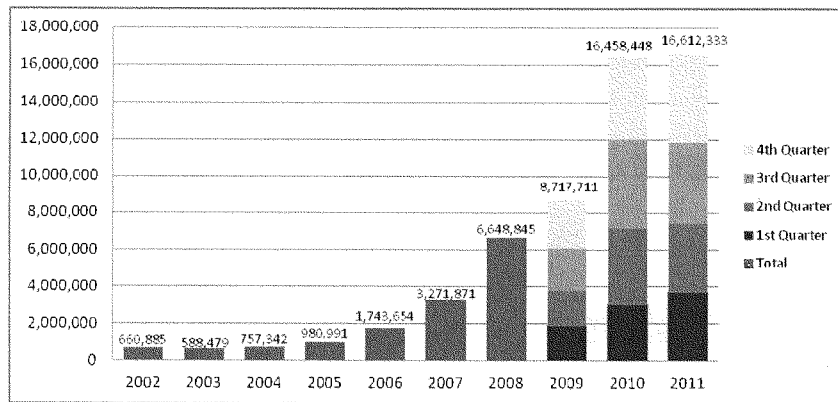
Note: Data are not cumulative and represent the number of arrests made in a given fiscal year.

Source: DHS, ICE, Treasury Enforcement Communication System, May 2012. See Appendix Table I2 for quarterly totals.

**Figure 21. Employers Newly Registered in E-Verify: FYs 2002 to 2011**

Note: Data are not cumulative and represent the number of newly registered employees in a given fiscal year.

Source: DHS, USCIS Verification Information System, May 2012. See Appendix Table I4 for quarterly totals.

**Figure 22. E-Verify Employer Queries: FYs 2002 to 2011**

Note: Beginning in 2011, a new counting method was adopted to eliminate duplicates and queries closed in error.

Source: DHS, USCIS Verification Information System, May 2012. See Appendix Table I5 for quarterly totals.

## J. Seizures—Drugs, Weapons, and Currency (Tables 7–8)

This section provides data on drug, weapon, and currency seizures by CBP BP and CBP OFO for FYs 2002 to 2011.

**Table 7. Drug, Weapon, and Currency Seizures by CBP BP: FYs 2002 to 2011**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Cocaine	6,502	6,755	6,722	5,399	5,844	6,460	4,206	4,947	4,744	4,519
Heroin	71	109	66	91	78	53	21	87	132	181
Marijuana	559,882	612,717	611,150	548,240	621,241	843,364	744,989	1,175,356	1,102,780	1,147,446
Methamphetamine	104	161	443	330	270	155	219	432	427	837
Currency (in millions)	\$8.5	\$6.9	\$6.7	\$6.8	\$7.7	\$8.3	\$10.8	\$14.4	\$11.7	\$14.8
Weapons	243	215	160	269	374	371	280	378	573	619

Note: Drug data are measured in kilograms. Currency is measured in U.S. dollars and rounded to the nearest million. Weapons refer to firearms.

Source: DHS, Enforcement Integrated Database, June 2012. See Appendix Table J1 for quarterly totals.

**Table 8. Drug, Weapon, and Currency Seizures by CBP OFO: FYs 2002 to 2011**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Cocaine	43,922	26,756	19,850	19,315	24,300	35,635	18,246	27,946	28,086	23,602
Heroin	2,311	1,718	1,287	1,048	1,085	932	845	828	1,276	1,604
Marijuana	338,118	357,918	295,953	241,351	221,770	280,388	261,612	312,265	246,548	254,141
Methamphetamine	835	1,121	969	1,341	1,552	1,165	1,156	1,996	2,900	3,799
Currency (in millions)	\$80.4	\$94.8	\$64.4	\$49.5	\$58.1	\$68.1	\$75.3	\$95.4	\$80.0	\$79.0
Weapons	7,889	6,085	4,300	2,782	3,804	2,662	3,276	2,599	2,992	3,049

Note: Drug data are measured in kilograms. Currency is measured in U.S. dollars and rounded to the nearest million. Weapons refer to firearms.

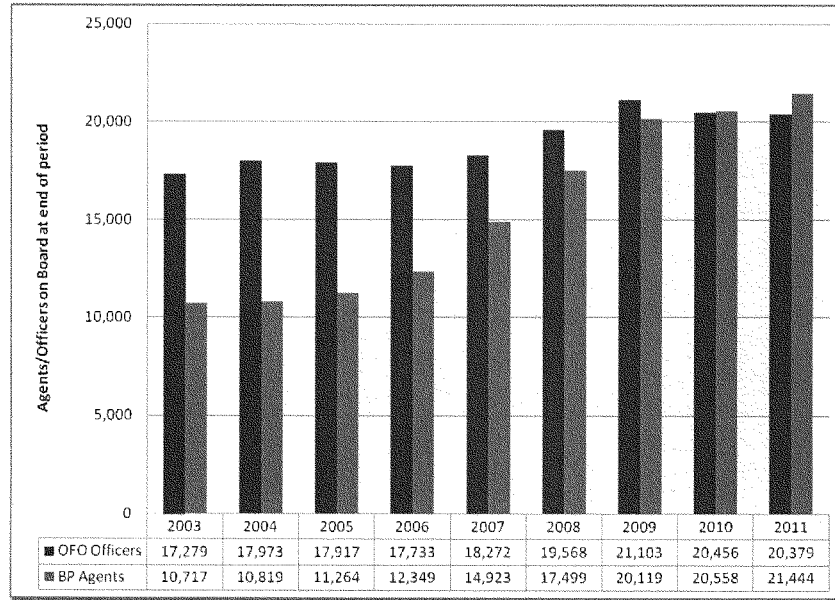
Source: DHS, CBP OFO, BorderStat, May 2012. See Appendix Table J2 for quarterly totals.



K. U.S. Customs and Border Protection Staffing (Figure 23 and Tables 9–10)

Tables 9 and 10 show the number of CBP Agents and Officers on board by sector/field office at the end of each reporting period, while figure 23 shows the service wide totals by fiscal year.

**Figure 23. CBP BP Agents and CBP OFO Officers: FYs 2003 to 2011**



Note: BP Agent Staffing refers to all GS-1896 Series BP Agents and GS-1801 BP Agent Re-employed Annuitants. OFO Officer staffing refers to all GS-1895 CBP Officers.

Source: DHS, CBP BP and CBP OFO, Human Resources Management Consolidated Personnel Reporting Online, July 2012.

**Table 9. CBP BP Agents by Sector: FYs 2003 to 2011**

<i>BP sector</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
<b>CBP-wide Total</b>	<b>10,717</b>	<b>10,819</b>	<b>11,264</b>	<b>12,349</b>	<b>14,923</b>	<b>17,499</b>	<b>20,119</b>	<b>20,558</b>	<b>21,444</b>
Total Sectors	10,561	10,645	11,039	12,104	14,567	17,014	19,518	20,044	20,975
Blaine, Washington	89	127	129	121	133	182	241	327	331
Buffalo, New York	73	110	121	112	166	204	289	320	311
Del Rio, Texas	950	933	907	935	1,138	1,427	1,682	1,650	1,626
Detroit, Michigan	80	128	130	117	157	185	318	430	409
El Centro, California	755	734	684	713	894	1,080	1,187	1,181	1,164
El Paso, Texas	1,188	1,094	1,330	1,741	2,251	2,506	2,712	2,752	2,738
Grand Forks, North Dakota	53	118	109	98	116	131	169	213	213
Havre, Montana	52	109	100	93	103	119	156	221	213
Houlton, Maine	47	120	118	104	113	137	190	203	201
Laredo, Texas	1,025	981	937	926	1,206	1,636	1,863	1,858	1,871
Livermore, California	7	5	X	X	X	X	X	X	X
Marfa, Texas	230	239	220	246	336	421	682	672	667
Miami, Florida	65	80	78	81	81	86	91	96	94
New Orleans, Louisiana	44	41	46	41	52	58	65	78	70
Ramey, Puerto Rico	36	34	36	31	39	65	67	72	68
Rio Grande Valley, Texas	1,524	1,439	1,380	1,431	1,822	2,063	2,422	2,441	2,504
San Diego, California	1,972	1,651	1,562	1,671	2,019	2,328	2,570	2,594	2,669
Spokane, Washington	78	120	120	119	132	186	232	255	257
Swanton, Vermont	97	147	161	155	178	219	292	294	302
Tucson, Arizona	1,838	2,104	2,324	2,595	2,806	3,049	3,318	3,353	4,239
Yuma, Arizona	358	331	547	774	825	932	972	987	969
Special Operations Group	X	8	9	12	12	50	48	47	59
BP Headquarters	156	57	108	107	125	163	256	222	214
Other CBP Offices <sup>1</sup>	X	109	108	126	219	272	345	292	255

X Not applicable.

Note: Staffing refers to all GS-1896 Series BP Agents and GS-1801 BP Agent Re-employed Annuitants.

<sup>1</sup> Includes Office of Training and Development, Office of the Commissioner, Office of International Affairs, and Office of Intelligence and Investigative Liaison.

Source: DHS, CBP BP, Human Resources Management Consolidated Personnel Reporting Online, July 2012. See Appendix Table K1 for quarterly totals. Note: Staffing refers to all GS-1895 CBP Officers.

Table 10. CBP Officers by Field Office: FYs 2003 to 2011

<i>Field office</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
<b>OFO Total</b>	<b>17,279</b>	<b>17,973</b>	<b>17,917</b>	<b>17,733</b>	<b>18,272</b>	<b>19,568</b>	<b>21,103</b>	<b>20,456</b>	<b>20,379</b>
Atlanta, Georgia	441	463	504	504	556	593	641	619	635
Baltimore, Maryland	502	510	494	475	496	533	583	559	549
Boston, Massachusetts	779	808	810	785	756	839	914	881	866
Buffalo, New York	853	1,010	952	962	959	1,096	1,197	1,157	1,136
Chicago, Illinois	618	624	625	621	651	647	664	646	636
Detroit, Michigan	800	888	881	872	872	979	1,148	1,113	1,094
El Paso, Texas	949	942	950	951	974	964	1,084	1,054	1,074
Houston, Texas	536	564	625	651	685	794	825	815	819
Laredo, Texas	1,708	1,752	1,729	1,810	1,865	1,905	2,045	1,997	2,022
Los Angeles, California	1,035	1,080	1,115	1,110	1,155	1,327	1,408	1,362	1,359
Miami, Florida	1,328	1,318	1,412	1,431	1,421	1,454	1,571	1,540	1,555
New Orleans, Louisiana	213	225	229	208	206	229	231	227	225
New York, New York	1,751	1,848	1,736	1,754	1,820	1,915	1,976	1,901	1,867
Portland, Oregon	192	211	205	186	203	205	201	195	189
Pre-Clearance <sup>1</sup>	491	487	459	494	447	467	456	457	463
San Diego, California	1,342	1,335	1,375	1,328	1,493	1,539	1,726	1,660	1,697
San Francisco, California	838	877	861	804	789	823	882	860	857
San Juan, Puerto Rico	412	411	398	388	399	414	438	427	406
Seattle, Washington	1,286	1,412	1,373	1,312	1,312	1,420	1,553	1,486	1,441
Tampa, Florida	288	331	335	325	319	381	414	395	387
Tucson, Arizona	722	742	719	671	647	736	805	766	758
Headquarters	195	135	130	91	247	308	341	340	344

<sup>1</sup> Refers to field offices abroad.

Note: Staffing refers to all GS-1895 CBP Officers.

Source: DHS, CBP OFO, Human Resources Management Consolidated Personnel Reporting Online, July 2012.  
See Appendix Table K2 for quarterly totals.

## L. Violence against CBP Agents and Officers (Tables 11–12)

Tables 11 and 12 show the number of acts of violence against CBP Agents and Officers.

**Table 11. Violence against CBP BP Agents: FYs 2007 to 2011**

<b>Fiscal Year/Quarter</b>	<b>Total Nationwide</b>
2007	987
2008	1,097
2009 Q1	208
2009 Q2	232
2009 Q3	309
2009 Q4	324
2009 Total	1,073
2010 Q1	346
2010 Q2	242
2010 Q3	271
2010 Q4	202
2010 Total	1,061
2011 Q1	171
2011 Q2	195
2011 Q3	170
2011 Q4	139
2011 Total	675

Source: DHS, Enforcement Integrated Database, May 2012. See Appendix Table L1 for quarterly totals.

**Table 12. Violence against CBP OFO Officers: FYs 2010 to 2011**

<b>Fiscal Year/Quarter</b>	<b>Total Nationwide</b>
2010 Q1	32
2010 Q2	28
2010 Q3	23
2010 Q4	27
2010 Total	110
2011 Q1	21
2011 Q2	27
2011 Q3	24
2011 Q4	44
2011 Total	116

Source: DHS, CBP, OFO, BorderStat, May 2012. See Appendix Table L2 for quarterly totals.

## M. Operation Stonegarden Grants (Table 13)

Operation Stonegarden funds are provided to enhance cooperation and coordination among local, tribal, territorial, state, and federal law enforcement agencies in a joint mission to secure the U.S. borders. The states and territories eligible for the program may border Mexico, Canada, or international waters. The totals in the following chart reflect the amount appropriated to the Department from Congress and how it is distributed.

Table 13. Operation Stonegarden Grant Program: FYs 2008 to 2011

<i>State</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
<b>Total</b>	<b>\$60.00</b>	<b>\$90.00</b>	<b>\$60.00</b>	<b>\$54.89</b>
Arizona	9.85	20.00	13.88	12.38
California	7.65	19.31	12.17	10.33
Florida	-	-	0.87	0.25
Idaho	-	0.23	0.18	-
Louisiana	-	-	-	0.32
Maine	5.11	1.52	1.12	1.01
Michigan	6.22	2.05	1.39	0.79
Minnesota	3.58	1.01	0.54	0.59
Montana	2.03	1.81	1.46	1.21
New Hampshire	-	-	-	0.10
New Mexico	4.68	6.58	4.02	3.84
New York	4.57	3.56	3.31	2.65
North Dakota	0.48	1.14	0.55	0.53
Ohio	-	-	0.33	0.66
Pennsylvania	-	-	-	0.10
Puerto Rico	-	0.53	0.33	0.22
Texas	13.04	29.50	17.55	17.77
Vermont	0.27	0.50	0.32	0.33
Washington	2.52	2.26	1.97	1.83

- Represents zero.

Note: Data are rounded to millions. Totals may not add because of rounding.

Source: Federal Emergency Management Agency, Grant Programs Directorate, May 2012.

## IV. Appendices

### A. Glossary

**Administrative arrest** – The arrest of an alien who is charged with removability under the provisions of the Immigration and Nationality Act (INA).

**Average Daily Detention Population** – Average daily detention population for the months included in the reporting period, where the detention population for any month is equal to the average daily detention population during the period.

**Average Length of Stay in Detention** – The mean length of stay in detention from the time of initial admission to the time of release for those aliens released during the reporting period. Aliens in detention at the end of the reporting period are excluded from the calculation.

**E-Verify** – An Internet-based system administered by USCIS in partnership with the Social Security Administration that allows employers to electronically verify the employment eligibility of workers.

**Inadmissible Alien** – An alien seeking admission into the United States or who is present without being admitted or parolee who is ineligible to be admitted according to the provisions of INA § 212.

**Removals** – The compulsory and confirmed movement of an inadmissible or deportable alien out of the United States based on an order of removal. Ineligibility to remain in the United States is based on grounds of inadmissibility under INA § 212 or deportability under INA § 237. An alien who is removed has administrative or criminal consequences placed on subsequent reentry owing to the fact of the removal. This report includes removals effectuated by both ICE and CBP.

**Returns** – The confirmed movement of an inadmissible or deportable alien out of the United States not based on an order of removal. Ineligibility to remain in the United States is based on grounds of inadmissibility under INA § 212 or deportability under INA § 237. An alien waives his or her right to a formal proceeding and chooses to depart the United States and return to his or her home country in lieu of removal proceedings. This report includes returns effectuated by both ICE and CBP.

**Queries** – For the purposes of the E-Verify program, each query represents one new hire.

**Seizure** – Taking physical possession and/or control of property, merchandise, or other articles from the possession or control of an individual or establishment.

**Violence against BP Agents** – Any assault directed at a BP Agent in the performance of or with a nexus to their official duties, including, but not limited to rockings, shootings, vehicular

assaults, other physical assaults, and any other threat of bodily harm or death, while engaged in or on account of border enforcement activities.

**Violence against OFO Officers** – Physical threats or elevated use of force occurring in reaction to a legitimate or perceived threat to OFO personnel. Along with physical assaults, violent incidents involve vehicles being operated in a manner that poses a risk or harm or the use or intended use of a deadly weapon.

**287(g) program** – The 287(g) Program is a state and local cross-designation program authorized by INA § 287(g). This program provides specific officers of participating state and local Law Enforcement Agencies with the necessary delegation of authority, training, and resources to perform certain functions of an immigration officer under the direction of ICE.

## B. List of Abbreviations/Acronyms

ADP	Average Daily Population
BP	CBP Border Patrol
BSSR	Border Security Status Report
CAP	Criminal Alien Program
CBP	U.S. Customs and Border Protection
DHS	U.S. Department of Homeland Security
ENFORCE	Enforcement Case Tracking System
ERO	ICE Office of Enforcement and Removal Operations
FY	Fiscal Year
HSI	ICE Office of Homeland Security Investigations
ICE	U.S. Immigration and Customs Enforcement
IDENT	Automated Biometric Identification System
IGSA	Intergovernmental Service Agreement
INA	Immigration and Nationality Act
MIRP	Mexican Interior Repatriation Program
NTA	Notice to Appear
OFO	CBP Office of Field Operations
SBI	Secure Border Initiative
USCIS	U.S. Citizenship and Immigration Services
WSE	Worksite Enforcement



## C. Quarterly Data Tables

Table B1. CBP Office of Border Patrol Apprehensions by Sector: Fiscal Years 2002 to 2011

Fiscal Year/Quarter	Total Apprehensions	Blaine, WA	Buffalo, NY	Del Rio, TX	Detroit, MI	EL Centro, CA	EL Paso, TX	Grand Forks, ND	Havre, MT	Houlton, ME
2002	955,310	1,732	1,102	65,985	1,511	108,273	94,154	1,359	1,463	432
2003	931,557	1,380	564	50,145	2,345	92,099	88,916	1,223	1,406	292
2004	1,160,395	1,354	671	53,784	1,912	74,467	104,399	1,225	986	263
2005	1,189,031	1,000	406	68,504	1,793	55,790	122,691	754	948	233
2006	1,089,086	809	1,518	42,630	1,282	61,457	122,264	517	567	175
2007	876,803	749	2,190	22,919	902	55,882	75,464	500	486	95
2008	723,840	951	3,338	20,761	961	40,962	30,310	542	427	81
2009, Total	556,032	844	2,672	17,082	1,157	33,520	14,998	472	283	60
2009 Q1	105,513	264	665	3,257	245	6,486	3,487	142	63	7
2009 Q2	164,825	249	590	5,743	295	10,014	4,287	84	82	7
2009 Q3	159,102	165	738	4,349	268	9,078	3,790	98	82	10
2009 Q4	126,592	186	679	3,733	349	7,942	3,434	148	56	21
2010, Total	463,382	673	2,422	14,694	1,669	32,562	12,251	543	290	56
2010 Q1	102,602	171	662	2,713	479	7,197	2,626	138	71	5
2010 Q2	142,693	174	636	4,353	377	9,932	3,792	108	83	12
2010 Q3	139,238	151	627	4,835	336	8,985	3,744	142	82	21
2010 Q4	78,849	177	497	2,793	477	6,448	2,089	155	54	18
2011, Total	340,252	591	2,114	16,144	1,531	30,191	10,345	468	270	41
2011 Q1	71,437	147	560	2,584	430	5,786	2,014	113	85	8
2011 Q2	98,069	154	512	4,430	429	8,476	3,044	117	62	11
2011 Q3	97,487	134	508	5,001	331	9,745	3,100	93	61	12
2011 Q4	73,259	156	534	4,129	341	6,184	2,187	145	62	10

Table B1. CBP Office of Border Patrol Apprehensions by Sector: Fiscal Years 2002 to 2011 (continued)

Fiscal Year/Quarter	Laredo, TX	Livermore, CA <sup>1</sup>	Marfa, TX	Miami, FL	New Orleans, LA	Ramey, PR	Rio Grande Valley, TX	San Diego, CA	Spokane, WA	Swanton, VT	Tucson, AZ	Yuma, AZ
2002	82,095	4,371	11,392	5,143	4,665	835	89,927	100,681	1,142	1,736	333,648	42,654
2003	70,521	3,565	10,319	5,931	5,151	1,688	77,749	111,515	992	1,955	347,263	56,638
2004	74,706	1,850	10,530	4,602	2,889	1,813	92,947	138,608	847	2,701	491,771	98,060
2005	75,330	X	10,536	7,243	1,358	1,619	134,161	126,915	279	1,936	439,105	138,430
2006	74,845	X	7,520	6,033	3,053	1,435	110,520	142,110	184	1,544	392,101	118,532
2007	56,716	X	5,537	7,121	4,018	548	73,429	152,454	338	1,119	378,332	37,994
2008	43,659	X	5,390	6,020	4,303	572	75,476	162,392	340	1,283	317,709	8,363
2009, Total	40,571	X	6,357	4,429	3,527	418	60,992	118,712	277	1,042	241,667	6,952
2009 Q1	7,107	X	1,467	961	962	175	12,692	24,542	98	251	41,522	1,105
2009 Q2	12,227	X	1,812	1,166	970	90	15,261	38,396	52	184	71,022	2,294
2009 Q3	11,174	X	1,538	1,064	838	87	16,494	33,896	48	284	72,997	2,104
2009 Q4	10,063	X	1,540	1,238	757	66	16,545	21,878	79	323	56,126	1,449
2010, Total	35,287	X	5,288	4,651	3,171	398	59,766	68,565	356	1,422	212,202	7,116
2010 Q1	6,545	X	1,324	1,357	599	71	10,911	14,391	70	240	51,090	1,942
2010 Q2	10,132	X	1,577	926	1,000	63	15,644	22,456	61	318	68,585	2,464
2010 Q3	11,816	X	1,483	1,239	845	109	20,211	18,065	92	357	64,311	1,787
2010 Q4	6,794	X	904	1,129	727	155	13,000	13,653	133	507	28,216	923
2011, Total	36,053	X	4,036	4,401	1,509	642	59,243	42,447	293	815	123,285	5,833
2011 Q1	6,257	X	947	1,191	496	139	10,602	11,057	80	189	27,616	1,136
2011 Q2	9,914	X	1,089	1,277	393	145	14,524	12,167	59	184	38,977	2,105
2011 Q3	10,284	X	1,158	958	344	170	17,864	10,614	67	156	35,489	1,418
2011 Q4	9,618	X	842	975	276	188	16,253	8,609	87	286	21,203	1,174

X Not applicable

- Represents zero.

<sup>1</sup> Livermore sector closed August 31, 2004.

Source: U.S. Department of Homeland Security, Customs and Border Protection (CBP) Office of Border Patrol (OBP), Performance Analysis System (PAS), Enforcement Integrated Database (EID), December 2011.

**Table B2. ICE HSI Administrative Arrests: Fiscal Years 2008 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Arrests</i>
2008	31,212
2009, Total	21,280
2009 Q1	5,733
2009 Q2	5,620
2009 Q3	5,357
2009 Q4	4,570
2010, Total	18,312
2010 Q1	3,993
2010 Q2	4,946
2010 Q3	5,147
2010 Q4	4,226
2011, Total	16,296
2011 Q1	3,295
2011 Q2	4,552
2011 Q3	4,089
2011 Q4	4,360

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) Treasury Enforcement Communication System (TECS) and Seized Asset and Case Tracking System (SEACATS), June 2012.

**Table B3. ICE ERO Administrative Arrests: Fiscal Years 2008 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Arrests</i>
2008	288,811
2009, Total	292,545
2009 Q1	71,788
2009 Q2	74,624
2009 Q3	74,672
2009 Q4	71,461
2010, Total	270,635
2010 Q1	63,180
2010 Q2	65,052
2010 Q3	72,835
2010 Q4	69,568
2011, Total	285,085
2011 Q1	64,341
2011 Q2	71,492
2011 Q3	74,935
2011 Q4	74,317

Note: Many of the aliens arrested by ERO were formerly incarcerated in Federal, State, and local prisons and jails. They are identified, processed, and prepared for removal under the Criminal Alien Program (CAP).

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), ICE Integrated Decision Support (IDS), May 2012.

Table B4. Aliens Found Inadmissible by CBP OFO Field Office: Fiscal Years 2009 to 2011

Fiscal Year/Quarter	Total	Atlanta,	Baltimore,	Boston,	Buffalo, NY	Chicago, IL	Detroit, MI	El Paso,	Houston,
		GA	MD	MA				TX	TX
2009, Total	224,402	8,020	2,435	4,658	18,724	3,551	7,441	7,729	16,455
2009 Q1	52,571	2,032	564	1,247	4,580	899	1,801	1,725	4,098
2009 Q2	54,803	2,132	547	883	3,992	803	2,151	2,028	3,582
2009 Q3	56,617	1,934	669	1,132	4,693	945	1,624	1,929	4,178
2009 Q4	60,411	1,922	655	1,296	5,459	904	1,865	2,047	4,811
2010, Total	229,403	9,163	2,775	4,716	17,763	3,219	7,398	7,898	19,963
2010 Q1	55,909	2,322	552	1,147	4,217	773	1,741	1,810	4,465
2010 Q2	56,760	2,430	710	1,248	3,630	844	1,824	1,891	4,663
2010 Q3	57,882	2,240	708	1,071	4,727	817	1,897	1,994	4,695
2010 Q4	58,852	2,171	805	1,250	5,189	785	1,936	2,203	5,140
2011, Total	212,234	8,726	3,108	5,203	15,712	2,553	7,208	6,909	19,528
2011 Q1	54,867	2,182	612	1,089	3,953	885	1,748	1,835	5,420
2011 Q2	52,510	2,400	831	1,203	3,398	575	1,788	1,624	5,241
2011 Q3	53,667	2,154	921	1,160	3,881	664	1,784	1,786	4,939
2011 Q4	51,190	1,990	744	1,751	4,480	629	1,888	1,664	3,928

Table B4. Aliens Found Inadmissible by CBP OFO Field Office: Fiscal Years 2009 to 2011 (continued)

Fiscal Year/Quarter	Laredo, TX	Los Angeles,	New Orleans,	New York,	Portland,	Pre-Clearance	San Diego,
		CA	Miami, FL	LA	NY	OR	CA
2009, Total	21,919	11,754	7,057	18,172	11,283	989	7,889
2009 Q1	5,711	2,729	1,772	4,636	2,451	320	1,714
2009 Q2	5,243	2,922	1,675	4,813	3,140	219	2,027
2009 Q3	5,168	3,072	1,658	4,273	2,926	223	2,069
2009 Q4	5,797	3,031	1,952	4,450	2,766	227	2,079
2010, Total	24,441	8,556	9,161	19,162	9,918	899	9,539
2010 Q1	6,450	2,306	2,412	5,262	2,632	284	2,108
2010 Q2	5,678	2,020	2,861	4,543	2,342	180	2,330
2010 Q3	5,905	1,876	2,043	4,420	2,690	222	2,652
2010 Q4	6,408	2,354	1,845	4,937	2,254	213	2,449
2011, Total	25,790	6,692	6,896	20,855	6,892	1,892	8,586
2011 Q1	6,674	2,194	1,601	6,344	1,902	207	2,265
2011 Q2	6,015	2,077	1,712	4,834	1,893	379	2,335
2011 Q3	6,155	1,181	1,717	5,045	1,958	682	2,089
2011 Q4	6,946	1,240	1,866	4,632	1,139	624	1,897

**Table B4. Aliens Found Inadmissible by CBP OFO Field Office: Fiscal Years 2009 to 2011 (continued)**

<i>Fiscal Year/Quarter</i>	<i>San Francisco, CA</i>	<i>San Juan, PR</i>	<i>Seattle, WA</i>	<i>Tampa, FL</i>	<i>Tucson, AZ</i>	<i>Unknown</i>
2009, Total	6,893	4,767	9,122	4,515	8,387	515
2009 Q1	1,533	1,053	2,244	917	1,674	131
2009 Q2	1,667	1,247	2,149	1,139	1,905	82
2009 Q3	2,174	1,250	2,282	1,137	1,905	180
2009 Q4	1,519	1,217	2,447	1,322	2,903	122
2010, Total	6,279	5,458	10,738	4,099	8,735	509
2010 Q1	1,723	1,313	2,223	895	2,464	136
2010 Q2	1,521	1,538	2,537	1,368	2,248	99
2010 Q3	1,627	1,466	2,877	980	2,098	74
2010 Q4	1,408	1,141	3,101	856	1,925	200
2011, Total	6,954	2,927	10,650	3,142	7,951	341
2011 Q1	1,144	1,181	2,452	771	1,984	158
2011 Q2	1,304	878	2,415	662	2,024	81
2011 Q3	2,520	592	2,717	872	2,052	61
2011 Q4	1,986	276	3,066	837	1,891	41

<sup>1</sup> Refers to field offices abroad.

Note: Data includes all aliens found inadmissible, including those turned away at a port of entry or conditionally permitted to enter the U.S. Prior SBI reports only included those not allowed to enter the U.S.  
Source: U.S. Department of Homeland Security, Customs and Border Protection (CBP), Office of Field Operations (OFO), Enforcement Integrated Database (EID), December 2011.

**Table D1. Notices to Appear (NTAs) Issued by USCIS: Fiscal Years 2003 to 2011**

<i>Fiscal Year/Quarter</i>	<i>NTAs Issued</i>
2003	55,087
2004	50,587
2005	47,692
2006	51,042
2007	66,038
2008	56,531
2009, Total	58,562
2009 Q1	11,141
2009 Q2	12,795
2009 Q3	16,034
2009 Q4	18,592
2010, Total	53,820
2010 Q1	13,199
2010 Q2	14,650
2010 Q3	13,715
2010 Q4	12,256
2011, Total	44,638
2011 Q1	10,567
2011 Q2	10,487
2011 Q3	12,277
2011 Q4	11,307

Note: Data from 2003 to 2008 include I-860 expedited removal notices issued in connection with credible fear adjudications even if not resulting in a NTA. Data for 2009 to 2011 only refer to I-862 Notices to Appear.

Source: U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) Performance Analysis System (PAS), Performance Reporting Tool (PRT), and Refugee, Asylum, and Parole System (RAPS), May 2012.

**Table D2. Notices to Appear (NTAs) Issued by CBP Office of Border Patrol: Fiscal Years 2005 to 2011**

<i>Fiscal Year/Quarter</i>	<i>NTAs Issued</i>
2005	166,332
2006	91,132
2007	41,615
2008	34,689
2009, Total	35,073
2009 Q1	7,945
2009 Q2	9,027
2009 Q3	9,152
2009 Q4	8,949
2010, Total	34,986
2010 Q1	8,283
2010 Q2	8,732
2010 Q3	9,876
2010 Q4	8,095
2011, Total	31,739
2011 Q1	7,314
2011 Q2	8,179
2011 Q3	8,547
2011 Q4	7,699

Note: NTA totals were elevated in 2005 and 2006 due to a surge in apprehension of Brazilians and Central Americans. Apprehensions and NTAs decreased over time as the practice of "Catch and Release" ended.

Source: U.S. Department of Homeland Security, Customs and Border Protection (CBP), Office of Border Patrol (OBP), Enforcement Integrated Database (EID), December 2011.

**Table D3. Notices to Appear (NTAs) Issued by CBP Office of Field Operations: Fiscal Years 2005 to 2011**

<i>Fiscal Year/Quarter</i>	<i>NTAs Issued</i>
2005	15,188
2006	22,123
2007	23,257
2008	20,559
2009, Total	17,475
2009 Q1	4,429
2009 Q2	4,041
2009 Q3	4,272
2009 Q4	4,733
2010, Total	18,992
2010 Q1	5,063
2010 Q2	4,707
2010 Q3	4,528
2010 Q4	4,694
2011, Total	17,542
2011 Q1	4,245
2011 Q2	3,988
2011 Q3	4,434
2011 Q4	4,875

Source: U.S. Department of Homeland Security, Customs and Border Protection (CBP), Office of Field Operations (OFO), Enforcement Integrated Database (EID), December 2011.

**Table D4. USCIS Fraud Cases Referred to ICE: Fiscal Years 2005 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Cases</i>
2005	1,919
2006	1,727
2007	2,185
2008	3,232
2009, Total	1,854
2009 Q1	538
2009 Q2	372
2009 Q3	508
2009 Q4	436
2010, Total	2,827
2010 Q1	381
2010 Q2	952
2010 Q3	829
2010 Q4	665
2011, Total	2,746
2011 Q1	459
2011 Q2	638
2011 Q3	866
2011 Q4	783

Note: Data shown represent the number of benefit applications filed with USCIS that were subsequently referred to ICE under suspicion of fraud by USCIS' Fraud Detection and National Security office.

Source: U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) Fraud Detection and National Security Data System (FDNS-DS), May 2012.

**Table E1. ICE HSI Criminal Arrests: Fiscal Years 2008 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Arrests</i>
2008	17,507
2009, Total	18,261
2009 Q1	4,251
2009 Q2	4,512
2009 Q3	5,132
2009 Q4	4,366
2010, Total	18,400
2010 Q1	4,322
2010 Q2	4,414
2010 Q3	4,955
2010 Q4	4,709
2011, Total	21,166
2011 Q1	4,827
2011 Q2	5,790
2011 Q3	5,451
2011 Q4	5,098

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) Treasury Enforcement Communication System (TECS) and Seized Asset and Case Tracking System (SEACATS), June 2012.

**Table E2. ICE ERO Criminal Arrests: Fiscal Years 2008 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Arrests</i>
2008, Total	4,251
2008 Q1	467
2008 Q2	1,029
2008 Q3	1,293
2008 Q4	1,462
2009, Total	7,694
2009 Q1	2,099
2009 Q2	1,794
2009 Q3	2,049
2009 Q4	1,752
2010, Total	8,831
2010 Q1	1,904
2010 Q2	2,194
2010 Q3	2,446
2010 Q4	2,287
2011, Total	9,818
2011 Q1	2,655
2011 Q2	2,584
2011 Q3	2,370
2011 Q4	2,209

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) Treasury Enforcement Communication System (TECS) and Seized Asset and Case Tracking System (SEACATS), June 2012.



**Table E3. CBP OFO Criminal Arrests: Fiscal Years 2008 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Arrests</i>
2008	24,406
2009, Total	28,355
2009 Q1	6,444
2009 Q2	7,582
2009 Q3	7,345
2009 Q4	6,984
2010, Total	27,934
2010 Q1	6,662
2010 Q2	7,129
2010 Q3	7,171
2010 Q4	6,972
2011, Total	26,051
2011 Q1	6,164
2011 Q2	6,422
2011 Q3	6,704
2011 Q4	6,761

Note: Criminal arrests at the ports of entry may be for narcotics violations and seizures (e.g. unlawful possession and/or smuggling of narcotics), immigration-related prosecutable violations (e.g. reentry after removal, alien smuggling, etc.) and any other crime involving prohibited items or commodities. The number of OFO criminal arrests reported in previous SBI reports incorrectly included some records of inadmissible aliens that were not subject to criminal charges.

Source: U.S. Department of Homeland Security, Customs and Border Protection, Office of Field Operations (OFO), Treasury Enforcement Communication System (TECS) and Seized Asset and Case Tracking System (SEACATS), May 2012.

**Table F1. Legal Entries, Citizens and Non-Citizens Admitted: Fiscal Years 2003 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Total (in millions)</i>	<i>U.S. Citizens (in millions)</i>	<i>Non-U.S. Citizens (in millions)</i>
2003	423.1	159.6	263.5
2004	424.3	169.2	255.1
2005	419.7	166.9	252.7
2006	412.7	162.8	249.9
2007	407.1	164.4	242.7
2008	399.9	153.7	246.2
2009, Total	360.7	132.5	228.2
2009 Q1	91.1	31.6	59.6
2009 Q2	84.6	32.0	52.6
2009 Q3	88.0	32.9	55.1
2009 Q4	97.0	36.0	61.0
2010, Total	352.0	131.2	220.8
2010 Q1	86.7	31.2	55.5
2010 Q2	83.1	31.1	52.0
2010 Q3	87.6	33.1	54.6
2010 Q4	94.5	35.7	58.7
2011, Total	340.0	124.3	215.6
2011 Q1	82.8	29.0	53.8
2011 Q2	79.0	29.3	49.7
2011 Q3	85.2	31.6	53.5
2011 Q4	93.0	34.4	58.6

Source: U.S. Department of Homeland Security, Customs and Border Protection (CBP), Office of Field Operations (OFO), Operation Management Reporting (OMR). Data from 2003 to 2006 are from the 2010 Secure Border Initiative Report; data from 2007 are current as of February 2009; Data from 2008 are current as of July 2009; Data from 2009 are current as of January 2010; data from 2010 are current as of October 2010; data from 2011 are current as of December 2011.

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2009 Q3	88.0	32.9	55.1
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2010 Q3	87.6	33.1	54.6
2010 Q4	94.5	35.7	58.7
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2011 Q3	85.2	31.6	53.5
2011 Q4	93.0	34.4	58.6

Source: U.S. Department of Homeland Security, Customs and Border Protection (CBP), Office of Field Operations (OFO), Operation Management Reporting (OMR). Data from 2003 to 2006 are from the 2010 Secure Border Initiative Report; data from 2007 are current as of February 2009; Data from 2008 are current as of July 2009; Data from 2009 are current as of January 2010; data from 2010 are current as of October 2010; data from 2011 are current as of December 2011.

Table F2. Legal Entries, Citizens and Non-Citizens Admitted by CBP OFO Field Office: Fiscal Years 2003 to 2011

Fiscal Year/Quarter	Total (in millions)	Atlanta, GA	Baltimore, MD	Boston, MA	Buffalo, NY	Chicago, IL	Detroit, MI	El Paso, TX	Houston, TX	Laredo, TX	Los Angeles, CA
2003	423.1	3.4	4.0	12.6	25.6	5.3	24.2	41.7	5.2	89.8	8.2
2004	424.3	4.1	4.6	12.6	26.1	6.2	23.6	42.4	6.0	83.4	10.3
2005	419.7	4.5	4.6	13.1	24.7	6.8	22.5	43.0	6.9	79.2	10.2
2006	412.7	5.0	4.6	12.9	24.6	6.8	22.0	42.4	7.4	76.5	10.3
2007	407.1	5.4	4.9	10.7	24.5	6.9	21.1	39.6	7.5	74.7	10.4
2008	399.9	5.9	5.2	11.4	24.3	6.8	19.9	37.5	7.3	74.5	10.5
2009, Total	360.7	5.7	5.2	10.0	21.3	5.9	16.4	33.9	7.0	68.0	9.0
2009 Q1	91.1	1.3	1.1	2.3	5.0	1.3	4.2	9.2	1.6	19.3	2.2
2009 Q2	84.6	1.3	1.1	1.9	3.9	1.4	3.6	7.8	1.6	16.8	2.2
2009 Q3	88.0	1.5	1.4	2.4	5.1	1.5	4.0	8.3	1.7	15.6	2.1
2009 Q4	97.0	1.5	1.7	3.3	7.3	1.6	4.5	8.7	1.9	16.3	2.5
2010, Total	352.0	5.9	5.4	10.5	21.2	6.0	16.6	32.1	7.4	59.6	9.5
2010 Q1	86.7	1.2	1.2	2.3	4.9	1.3	4.0	8.1	1.7	16.7	2.3
2010 Q2	83.1	1.4	1.1	2.0	4.0	1.5	3.6	7.8	1.9	15.1	2.3
2010 Q3	87.6	1.6	1.4	2.6	5.2	1.6	4.1	8.1	1.8	14.4	2.4
2010 Q4	94.5	1.7	1.7	3.6	7.2	1.7	4.9	8.2	2.0	13.5	2.5
2011, Total	340.0	6.2	5.6	10.3	22.1	6.0	17.2	26.6	7.9	49.9	9.7
2011 Q1	82.8	1.3	1.3	2.3	5.0	1.3	4.1	7.1	1.8	13.1	2.2
2011 Q2	79.0	1.4	1.2	1.9	4.0	1.4	3.7	6.3	1.9	12.1	2.3
2011 Q3	85.2	1.7	1.5	2.6	5.5	1.6	4.3	6.5	2.0	12.2	2.5
2011 Q4	93.0	1.8	1.7	3.6	7.6	1.7	5.0	6.7	2.1	12.3	2.7

Table F2. Legal Entries, Citizens and Non-Citizens Admitted by CBP OFO Field Office: Fiscal Years 2003 to 2011 (continued)

Fiscal Year/Quarter	New					San					San	
	Miami, FL	Orleans, LA	New York, NY	Portland, OR	Pro- Clearance <sup>1</sup>	San Diego, CA	Francisco, CA	Juan, PR	Seattle, WA	Tampa, FL	Tucson, AZ	
2003	12.3	0.8	12.5	1.1	13.1	93.4	6.9	3.3	21.0	3.2	35.4	
2004	14.0	0.8	13.8	2.3	13.0	89.3	8.3	4.5	20.3	3.7	34.9	
2005	13.0	1.2	15.2	2.2	13.7	88.0	8.6	4.9	20.4	4.1	34.8	
2006	12.9	0.5	16.0	2.2	14.1	83.0	8.4	5.0	20.8	4.3	33.1	
2007	13.7	1.0	17.3	2.4	15.3	79.7	8.5	5.4	20.7	4.2	33.0	
2008	14.4	1.0	18.5	2.4	15.0	73.8	8.5	5.4	21.8	4.0	31.8	
2009, Total	14.4	0.9	17.5	2.0	14.2	65.7	7.8	4.3	19.8	4.1	27.6	
2009 Q1	3.7	0.2	4.0	0.2	3.4	16.8	1.8	1.0	4.2	1.0	7.1	
2009 Q2	4.1	0.3	3.7	0.3	3.5	15.9	1.8	1.3	3.8	0.9	7.1	
2009 Q3	3.3	0.2	4.4	0.6	3.5	16.3	1.8	1.0	5.1	1.1	6.9	
2009 Q4	3.3	0.2	5.3	0.9	3.9	16.7	2.2	1.0	6.6	1.1	6.5	
2010, Total	15.4	1.0	18.4	1.8	13.5	63.2	8.5	4.8	22.7	4.2	24.3	
2010 Q1	3.6	0.2	4.1	0.2	3.3	16.5	1.9	1.2	4.8	1.0	6.4	
2010 Q2	4.3	0.3	3.9	0.3	3.4	15.2	2.1	1.5	4.5	1.0	6.2	
2010 Q3	3.7	0.2	4.7	0.6	3.4	15.7	2.1	1.1	5.9	1.0	5.9	
2010 Q4	3.8	0.2	5.7	0.7	3.3	15.8	2.5	1.0	7.6	1.1	5.6	
2011, Total	16.5	1.1	18.8	1.8	14.9	62.5	8.7	4.7	23.4	4.5	21.6	
2011 Q1	4.2	0.2	4.2	0.2	3.5	16.0	2.0	1.2	4.8	1.1	5.6	
2011 Q2	4.6	0.3	3.9	0.3	3.5	15.5	2.1	1.6	4.6	1.1	5.3	
2011 Q3	3.8	0.3	5.0	0.6	3.8	15.5	2.1	1.1	6.1	1.1	5.4	
2011 Q4	3.8	0.3	5.7	0.7	4.1	15.5	2.5	0.9	7.9	1.2	5.2	

<sup>1</sup> Refers to field offices abroad.

Note: Numbers rounded to millions.

Source: U.S. Department of Homeland Security, Customs and Border Protection (CBP), Office of Field Operations (OFO), Operation Management Reporting (OMR). Data from 2003 to 2006 are from the 2010 Secure Border Initiative Report; data from 2007 are current as of February 2009; data from 2008 are current as of July 2009; data from 2009 are current as of January 2010; data from 2010 are current as of October 2010; data from 2011 are current as of December 2011.

**Table G1. Initial Admissions to ICE Detention Facilities: Fiscal Years 2008 to 2011**

<b>Fiscal Year/Quarter</b>	<b>Admissions</b>
2008, Total	378,840
2008 Q1	75,875
2008 Q2	86,490
2008 Q3	97,679
2008 Q4	118,796
2009, Total	383,524
2009 Q1	93,543
2009 Q2	92,196
2009 Q3	94,638
2009 Q4	103,147
2010, Total	363,064
2010 Q1	82,722
2010 Q2	84,767
2010 Q3	99,151
2010 Q4	96,424
2011, Total	429,247
2011 Q1	90,357
2011 Q2	111,364
2011 Q3	122,543
2011 Q4	104,983

Note: Beginning in 2010, excludes detainees in ICE custody held in facilities dedicated to housing aliens in the Mexican Interior Repatriation Program (MIRP).

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), ICE Integrated Decision Support (IDS), June 2012.

**Table G2. Initial Admissions to ICE Detention Facilities under the Mexico Interior Repatriation Program (MIRP): Fiscal Years 2008 to 2011**

<b>Fiscal Year/Quarter</b>	<b>Admissions</b>
2008, Total	19,553
2008 Q1	0
2008 Q2	0
2008 Q3	0
2008 Q4	19,553
2009, Total	10,535
2009 Q1	0
2009 Q2	0
2009 Q3	0
2009 Q4	10,535
2010, Total	22,506
2010 Q1	0
2010 Q2	0
2010 Q3	6,563
2010 Q4	15,943
2011, Total	8,592
2011 Q1	0
2011 Q2	0
2011 Q3	0
2011 Q4	8,592

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), ICE Integrated Decision Support (IDS), August 2012.

**Table G3. ICE Average Daily Population (ADP): Fiscal Years 2002 to 2011**

<i>Fiscal Year/Quarter</i>	<i>ADP</i>
2002	19,922
2003	21,178
2004	21,928
2005	19,718
2006	22,975
2007	30,295
2008	31,771
2009, Total	31,888
2009 Q1	32,316
2009 Q2	32,091
2009 Q3	31,857
2009 Q4	31,293
2010, Total	30,895
2010 Q1	29,533
2010 Q2	28,633
2010 Q3	32,511
2010 Q4	32,873
2011, Total	33,305
2011 Q1	33,496
2011 Q2	33,204
2011 Q3	33,387
2011 Q4	33,131

Note: Average Daily Population (ADP) is provided in place of funded beds as it more accurately reflects the status of facility capacity and utilization. ADP is based on the total number of midnight count bed space used divided by the number of days in the requested period of time. Beginning in 2010, excludes detainees in ICE custody held in facilities dedicated to housing aliens in the Mexican Interior Repatriation Program (MIRP).

Table G4. Intergovernmental Service Agreement (IGSA) Facilities by State/Territory: Fiscal Years 2009 to 2011

State/Territory	FY 2009 TOTAL			FY 2010 TOTAL			FY 2011 TOTAL		
	term Facilities	Long-term Facilities	Total IGSA's	Short-term Facilities	Long-term Facilities	Total IGSA's	Short-term Facilities	Long-term Facilities	Total IGSA's
Alabama	1	528	529	1	403	404	3	395	398
Alaska	0	4	4	0	3	3	0	2	2
Arizona	4	2322	2,326	8	2,213	2,221	6	2,177	2,183
Arkansas	25		25	12		12	12		12
California	35	1823	1,858	9	1,915	1,924	7	2,682	2,689
Colorado	18	243	260	11	101	112	8	101	109
Connecticut		7	7						
Delaware									
District of Columbia									
Florida	23	818	841	2	723	725	4	877	880
Georgia	25	1923	1,948	17	2,029	2,045	13	2,363	2,376
Guam		28	28		5	5			
Hawaii									
Idaho	14	10	24	2	18	20	0	24	24
Illinois	4	483	486	3	433	436	4	598	602
Indiana	7		7	4		4	6		6
Iowa		165	165		161	161		179	179
Kansas	0	56	56		52	52		68	68
Kentucky	1	74	75	0	90	90	3	150	153
Louisiana	2	1613	1,615		1,335	1,335		1,541	1,541

Table G4. Intergovernmental Service Agreement (IGSA) Facilities by State/Territory: Fiscal Years 2009 to 2011 (continued)

State/Territory	FY 2009 TOTAL			FY 2010 TOTAL			FY 2011 TOTAL		
	Short-term Facilities	Long-term Facilities	Total IGSA's	Short-term Facilities	Long-term Facilities	Total IGSA's	Short-term Facilities	Long-term Facilities	Total IGSA's
Maine	0	39	39	0	13	14	0	6	6
Maryland		175	175		231	231		310	310
Massachusetts		797	797		832	832		799	799
Michigan	109	252	362	100	218	318	88	253	341
Minnesota	0	247	247		291	291		296	296
Mississippi									
Missouri	1	175	176	1	164	165	0	175	175
Montana	3	1	4	3	2	5	2	1	3
Nebraska		225	225	2	228	229	2	268	270
Nevada	137	19	157	134	16	150	68	139	207
New Hampshire		30	30		18	18		17	17
New Jersey		994	994		1,137	1,137		1,351	1,351
New Mexico	45	865	910	1	879	880	0	853	853
New York	1	160	161	0	156	156	0	172	172
North Carolina	109	76	184	61	74	135	30	73	102
North Dakota	0	32	32	0	22	22	0	18	18
Ohio		339	339		336	336		362	362
Oklahoma	15	146	162	6	121	127	7	154	162
Oregon	4	30	34	1	15	16	1	8	9
Pennsylvania	1	1,184	1,185	1	1,209	1,210	1	1,124	1,125
Puerto Rico									
Rhode Island		32	32					0	0
South Carolina		18	18		43	43	4	82	86
South Dakota	0	11	11		1	1		0	0
Tennessee	1	37	38		27	27		28	28
Texas	82	4,041	4,123	35	3,819	3,854	64	3,487	3,551
Utah	2	217	219	0	241	242	0	262	262
Vermont		18	18		0	0		0	0
Virginia	18	587	605	1	530	532	0	891	891
Washington	24		24	9		9	4		4
West Virginia	0	7	7	1	2	3	1	3	4
Wisconsin		295	295		303	303		385	385
Wyoming	3	1	4	3	0	3	2	1	3

Note: IGSA data include dedicated and non-dedicated IGSA facilities that were inspected by ICE. Short-term facilities accommodate stays of less than 72 hours. Long-term facilities accommodate stays of 72 hours or more.

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), ICE Integrated Decision Support (IDS), May 2012.



**Table H1. DHS Removals and Returns: Fiscal Years 2009 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Removals<sup>1</sup></i>	<i>Returns<sup>2</sup></i>
2009, Total	393,457	584,436
2009 Q1	92,385	119,558
2009 Q2	101,197	165,088
2009 Q3	101,438	163,404
2009 Q4	98,437	136,386
2010, Total	385,100	475,613
2010 Q1	93,632	111,401
2010 Q2	98,750	136,044
2010 Q3	101,854	136,384
2010 Q4	90,864	91,784
2011, Total	391,953	323,542
2011 Q1	89,225	79,464
2011 Q2	96,002	94,570
2011 Q3	109,361	83,729
2011 Q4	97,365	65,779

<sup>1</sup> Removals are the compulsory and confirmed movement of an inadmissible or deportable alien out of the United States based on an order of removal. An alien who is removed has administrative or criminal consequences placed on subsequent reentry owing to the fact of the removal.

<sup>2</sup> Returns are the confirmed movement of an inadmissible or deportable alien out of the United States not based on an order of removal. Most of the voluntary returns are of Mexican nationals who have been apprehended by the U.S. Border Patrol and are returned to Mexico.

Source: U.S. Department of Homeland Security, ENFORCE Alien Removal Module (EARM), January 2012 & Enforcement Integrated Database (EID), December 2011.

**Table H1. Worksite Enforcement—Judicially Ordered Amount of Fines, Forfeitures, and Restitutions: Fiscal Years 2004 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Amount</i>
2004	\$2,929,000
2005	\$15,822,100
2006	\$7,988,137
2007	\$31,428,443
2008	\$21,978,918
2009, Total	\$31,244,945
2009 Q1	\$24,628,282
2009 Q2	\$1,198,006
2009 Q3	\$2,468,350
2009 Q4	\$2,950,307
2010, Total	\$36,611,321
2010 Q1	\$676,343
2010 Q2	\$5,064,320
2010 Q3	\$27,663,153
2010 Q4	\$3,207,505
2011, Total	\$7,189,631
2011 Q1	\$170,088
2011 Q2	\$3,120,921
2011 Q3	\$2,490,100
2011 Q4	\$1,408,522

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), Significant Incident Notification System (SENS), May 2012.

**Table I2. ICE Worksite Arrests—Owners/Employers: Fiscal Years 2005 to 2011**

<b>Fiscal Year/Quarter</b>	<b>Arrests</b>
2005	3
2006	110
2007	92
2008	135
2009, Total	114
2009 Q1	33
2009 Q2	10
2009 Q3	33
2009 Q4	38
2010, Total	196
2010 Q1	8
2010 Q2	34
2010 Q3	82
2010 Q4	72
2011, Total	221
2011 Q1	44
2011 Q2	40
2011 Q3	53
2011 Q4	84

Note: Data are not cumulative and represent the number of arrests made in a given fiscal year.

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), Treasury Enforcement Communication System (TECS), May 2012.

**Table I3. ICE Worksite Arrests—Employees/Other: Fiscal Years 2005 to 2011**

<b>Fiscal Year/Quarter</b>	<b>Arrests</b>
2005	173
2006	606
2007	771
2008	968
2009, Total	296
2009 Q1	169
2009 Q2	36
2009 Q3	72
2009 Q4	19
2010, Total	197
2010 Q1	26
2010 Q2	63
2010 Q3	42
2010 Q4	66
2011, Total	492
2011 Q1	128
2011 Q2	98
2011 Q3	32
2011 Q4	234

Note: Data are not cumulative and represent the number of arrests made in a given fiscal year.

Source: U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), Treasury Enforcement Communication System (TECS), May 2012.

**Table I4. Employers Registered in E-Verify: Fiscal Years 2002 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Employers</i>
2002	1,704
2003	440
2004	1,334
2005	2,421
2006	5,575
2007	12,989
2008	63,663
2009, Total	68,543
2009 Q1	12,570
2009 Q2	17,423
2009 Q3	15,973
2009 Q4	22,577
2010, Total	69,869
2010 Q1	23,272
2010 Q2	15,316
2010 Q3	16,110
2010 Q4	15,171
2011, Total	66,096
2011 Q1	14,198
2011 Q2	16,842
2011 Q3	16,860
2011 Q4	18,196

Note: Data are not cumulative and represent the number of newly registered employees in a given fiscal year.

Source: U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) Verification Information System (VIS), May 2012.

**Table I5. E-Verify Employer Queries: Fiscal Years 2002 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Queries</i>
2002	660,885
2003	588,479
2004	757,342
2005	980,991
2006	1,743,654
2007	3,271,871
2008	6,648,845
2009, Total	8,717,711
2009 Q1	1,907,827
2009 Q2	1,856,398
2009 Q3	2,284,709
2009 Q4	2,668,777
2010, Total	16,458,448
2010 Q1	3,031,599
2010 Q2	4,146,186
2010 Q3	4,848,123
2010 Q4	4,432,540
2011, Total	16,612,333
2011 Q1	3,690,931
2011 Q2	3,695,747
2011 Q3	4,453,421
2011 Q4	4,772,234

Note: Beginning in 2011, a new counting method was adopted to eliminate duplicates and queries closed in error.

Source: U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) Verification Information System (VIS), May 2012.

**Table J1. Drug, Weapon, and Currency Seizures by CBP BP: Fiscal Years 2009 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Cocaine</i>	<i>Heroin</i>	<i>Marijuana</i>	<i>Methamphetamine</i>	<i>Currency</i>	<i>Weapons</i>
2009 Total	4,947	87	1,175,356	432	\$14,353,112.92	378
2009 Q1	904	18	242,406	14	\$2,554,169.05	115
2009 Q2	1,217	10	355,185	187	\$4,796,950.67	103
2009 Q3	1,253	21	341,155	121	\$4,957,591.92	83
2009 Q4	1,573	37	236,609	109	\$1,934,401.28	77
2010 Total	4,744	132	1,102,780	427	\$11,721,702.96	573
2010 Q1	1,177	42	313,731	87	\$5,041,067.19	139
2010 Q2	1,374	17	302,188	166	\$3,152,508.42	118
2010 Q3	729	42	266,222	76	\$689,903.97	189
2010 Q4	1,464	31	220,640	98	\$2,838,223.38	127
2011 Total	4,519	181	1,147,446	837	\$14,791,541.29	619
2011 Q1	738	31	280,743	124	\$2,406,196.50	132
2011 Q2	719	30	299,136	166	\$5,480,722.86	177
2011 Q3	1,551	24	283,681	302	\$2,795,287.06	163
2011 Q4	1,411	96	283,886	246	\$4,109,334.87	147

Note: Drug data are measured in kilograms (kg). Currency is measured in U.S. Dollars (USD). Weapons refer to firearms.

Source: U.S. Department of Homeland Security, Enforcement Integrated Database (EID), Border Patrol Enforcement Tracking System (BPETS), June 2012.

**Table J2. Drug, Weapon, and Currency Seizures by CBP OFO: Quarterly, Fiscal Years 2009 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Cocaine</i>	<i>Heroin</i>	<i>Marijuana</i>	<i>Methamphetamine</i>	<i>Currency</i>	<i>Weapons</i>
2009, Total	27,946	828	312,265		1,996 \$95,365,036.54	2,599
2009 Q1	11,255	219	80,332		265 \$17,610,471.36	578
2009 Q2	6,816	170	92,139		527 \$23,611,105.36	225
2009 Q3	5,954	224	84,868		662 \$31,320,569.47	1,255
2009 Q4	3,921	214	54,925		542 \$22,822,890.35	541
2010, Total	28,086	1,276	246,548		2,900 \$79,963,198.35	2,992
2010 Q1	5,393	200	56,804		589 \$16,105,335.20	803
2010 Q2	5,339	331	76,436		718 \$19,253,549.76	760
2010 Q3	10,694	299	67,639		952 \$17,242,850.35	371
2010 Q4	6,660	446	45,670		641 \$27,361,463.04	1,058
2011, Total	23,602	1,604	254,141		3,799 \$79,036,968.86	3,049
2011 Q1	5,870	398	56,699		746 \$18,265,127.69	853
2011 Q2	3,498	306	71,759		952 \$18,332,461.72	995
2011 Q3	3,855	447	68,062		1,017 \$25,459,021.85	953
2011 Q4	10,379	453	57,621		1,083 \$16,980,357.60	248

Note: Drug data are measured in kilograms (kg). Currency is measured in U.S. Dollars (USD). Weapons refer to firearms.

Source: U.S. Department of Homeland Security, Customs and Border Protection (CBP), Office of Field Operations (OFO), BorderStat, May 2012.

**Table K1. CBP BP Agents by Sector: Fiscal Years 2009 to 2011**

<i>Fiscal Year/Quarter</i>	<i>Total Nationwide</i>	<i>Total Sectors (subtotal)</i>	<i>Blaine, WA</i>	<i>Buffalo, NY</i>	<i>Del Rio, TX</i>	<i>Detroit, MI</i>	<i>El Centro, CA</i>	<i>El Paso, TX</i>	<i>Grand Forks, ND</i>
2009, Total	20,119	19,518	241	289	1,682	318	1,187	2,712	169
2009 Q1	18,332	17,814	183	213	1,447	203	1,084	2,582	137
2009 Q2	18,819	18,268	190	214	1,476	204	1,149	2,586	141
2009 Q3	19,354	18,790	191	232	1,622	203	1,157	2,677	146
2009 Q4	20,119	19,518	241	289	1,682	318	1,187	2,712	169
2010, Total	20,558	20,044	327	320	1,650	430	1,181	2,752	213
2010 Q1	20,126	19,475	288	294	1,636	370	1,185	2,649	184
2010 Q2	20,048	19,403	310	306	1,616	394	1,166	2,624	212
2010 Q3	20,061	19,477	305	297	1,627	387	1,169	2,647	212
2010 Q4	20,558	20,044	327	320	1,650	430	1,181	2,752	213
2011, Total	21,444	20,975	331	311	1,626	409	1,164	2,738	213
2011 Q1	20,679	20,182	326	317	1,629	421	1,183	2,735	210
2011 Q2	20,732	20,233	326	318	1,611	417	1,170	2,712	213
2011 Q3	20,699	20,201	328	309	1,579	409	1,133	2,678	214
2011 Q4	21,444	20,975	331	311	1,626	409	1,164	2,738	213

**Table K1. CBP BP Agents by Sector: Fiscal Years 2009 to 2011 (continued)**

<i>Fiscal Year/Quarter</i>	<i>Havre, MT</i>	<i>Houlton, ME</i>	<i>Laredo, TX</i>	<i>Marfa, TX</i>	<i>Miami, FL</i>	<i>New Orleans, LA</i>	<i>Ramey, PR</i>	<i>Rio Grande Valley, TX</i>	<i>San Diego, CA</i>
2009, Total	156	190	1,863	682	91	65	67	2,422	2,570
2009 Q1	134	165	1,696	454	88	64	66	2,240	2,417
2009 Q2	138	173	1,736	475	93	66	66	2,312	2,501
2009 Q3	145	170	1,789	591	90	65	66	2,357	2,534
2009 Q4	156	190	1,863	682	91	65	67	2,422	2,570
2010, Total	221	203	1,858	672	96	78	72	2,441	2,594
2010 Q1	196	189	1,849	693	102	77	73	2,386	2,556
2010 Q2	201	204	1,837	676	101	79	73	2,366	2,535
2010 Q3	207	203	1,841	682	98	79	72	2,388	2,548
2010 Q4	221	203	1,858	672	96	78	72	2,441	2,594
2011, Total	213	201	1,871	667	94	70	68	2,504	2,669
2011 Q1	219	201	1,858	677	94	77	72	2,435	2,614
2011 Q2	212	201	1,837	665	95	75	72	2,425	2,583
2011 Q3	213	202	1,795	665	92	70	71	2,445	2,593
2011 Q4	213	201	1,871	667	94	70	68	2,504	2,669

Table K1. CBP BP Agents by Sector: Fiscal Years 2009 to 2011 (continued)

Fiscal Year/Quarter	Spokane, WA	Swanton, VT	Tucson, AZ	Yuma, AZ	Special Operations Group	OBP Headquarters	Other CBP Offices <sup>1</sup>
2009, Total	232	292	3,318	972	48	256	345
2009 Q1	184	287	3,205	965	NA	220	298
2009 Q2	186	281	3,287	994	NA	240	311
2009 Q3	186	285	3,314	970	NA	240	324
2009 Q4	232	292	3,318	972	NA	256	345
2010, Total	255	294	3,353	987	47	222	292
2010 Q1	236	290	3,252	970	NA	272	379
2010 Q2	236	293	3,226	948	NA	276	369
2010 Q3	239	289	3,222	965	NA	267	317
2010 Q4	255	294	3,353	987	NA	222	292
2011, Total	257	302	4,239	969	59	214	255
2011 Q1	251	288	3,554	974	47	209	288
2011 Q2	249	284	3,755	966	47	216	283
2011 Q3	252	286	3,881	933	53	221	267
2011 Q4	257	302	4,239	969	59	214	255

NA Not available.

Note: Staffing refers to GS-1896 Series Border Patrol Agents

<sup>1</sup> Includes Office of Training and Development (OTD) and Office of Intelligence and Investigative Legislation (OIIL).

Source: U.S. Department of Homeland Security, Customs and Border Protection, Office of Field Operations, Human Resources Management Consolidated Personnel Reporting Online (HRM CPRO), May 2012.

Table K2. CBP Officers by Field Office: Fiscal Years 2009 to 2011

Fiscal Year/Quarter	Total	Atlanta, GA	Baltimore, MD	Boston, MA	Buffalo, NY	Chicago, IL	Detroit, MI	El Paso, TX	Houston, TX	Laredo, TX	Los Angeles, CA
2009, Total	21,103	641	583	914	1,197	664	1,148	1,084	825	2,045	1,408
2009 Q1	20,010	590	562	844	1,131	641	1,021	976	783	1,941	1,372
2009 Q2	20,585	617	597	875	1,154	642	1,121	978	814	1,972	1,430
2009 Q3	21,103	646	603	917	1,213	651	1,167	1,026	820	2,023	1,432
2009 Q4	21,103	641	583	914	1,197	664	1,148	1,084	825	2,045	1,408
2010, Total	20,456	619	559	881	1,157	646	1,113	1,054	815	1,956	1,362
2010 Q1	20,886	631	577	902	1,175	656	1,139	1,084	818	2,038	1,398
2010 Q2	20,746	624	570	896	1,167	657	1,132	1,078	814	2,017	1,386
2010 Q3	20,645	622	567	891	1,162	652	1,118	1,073	816	2,014	1,376
2010 Q4	20,456	619	559	881	1,157	646	1,113	1,054	815	1,956	1,362
2011, Total	20,379	635	549	866	1,136	636	1,094	1,074	819	2,022	1,359
2011 Q1	20,266	614	547	882	1,152	644	1,106	1,042	816	1,979	1,350
2011 Q2	20,207	608	541	874	1,150	641	1,097	1,047	810	1,991	1,341
2011 Q3	20,199	621	556	870	1,140	636	1,099	1,041	810	1,978	1,340
2011 Q4	20,379	635	549	866	1,136	636	1,094	1,074	819	2,022	1,359

Table K2. CBP Officers by Field Office: Fiscal Years 2009 to 2011 (continued)

Fiscal Year/Quarter	Miami, FL	New Orleans, LA	New York, NY	Portland, OR	Pre- Clearance <sup>1</sup>	San Diego, CA	San Francisco, CA	San Juan, PR	Seattle, WA	Tampa, FL	Tucson, AZ	Headquarters
2009 Total	1,571	231	1,976	201	456	1,726	882	438	1,553	414	805	341
2009 Q1	1,558	223	1,941	200	451	1,565	838	431	1,454	409	742	337
2009 Q2	1,596	224	1,944	202	451	1,630	883	437	1,506	421	757	336
2009 Q3	1,588	221	2,002	199	460	1,723	879	438	1,555	418	793	339
2009 Q4	1,571	231	1,976	201	456	1,726	882	438	1,553	414	805	341
2010 Total	1,540	227	1,901	195	457	1,660	860	427	1,486	395	766	340
2010 Q1	1,557	228	1,940	201	446	1,698	876	436	1,528	414	800	344
2010 Q2	1,555	225	1,927	198	455	1,682	869	435	1,518	406	795	349
2010 Q3	1,552	227	1,911	192	465	1,670	870	430	1,510	402	773	352
2010 Q4	1,540	227	1,901	195	457	1,660	860	427	1,486	395	766	340
2011 Total	1,555	225	1,857	189	463	1,697	857	406	1,441	367	758	344
2011 Q1	1,529	227	1,876	193	449	1,639	856	418	1,455	386	751	355
2011 Q2	1,520	225	1,858	191	466	1,631	855	415	1,443	364	755	354
2011 Q3	1,527	224	1,855	190	467	1,673	853	410	1,435	378	741	345
2011 Q4	1,555	225	1,867	189	463	1,697	857	406	1,441	367	758	344

<sup>1</sup>Refers to field offices abroad.

Note: Staffing refers to GS-1895 Series OFO Officers.

Source: U.S. Department of Homeland Security, Customs and Border Protection, Office of Field Operations, Human Resources Management Consolidated Personnel Reporting Online (HRM CPRO), May 2012.

Table L1. Violence against CBP BP Agents by Sector: Fiscal Years 2007 to 2011

Fiscal Year/Quarter	Total Nationwide	Blaine, WA	Buffalo, NY	Del Rio, TX	Detroit, MI	Centro, CA	El Paso, TX	Grand Forks, ND	Havre, MT	Houlton, ME
2007	987	0	1	33	1	134	78	0	0	0
2008	1,097	0	3	19	1	148	88	2	1	0
2009 Total	1,073	3	6	23	1	188	50	1	0	0
2009 Q1	208	1	1	6	0	19	27	0	0	0
2009 Q2	232	0	4	8	0	26	8	0	0	0
2009 Q3	309	2	0	6	0	60	11	0	0	0
2009 Q4	324	0	1	3	1	83	4	1	0	0
2010 Total	1,061	1	1	8	5	196	117	2	0	0
2010 Q1	346	1	1	3	1	87	3	0	0	0
2010 Q2	242	0	0	4	2	13	53	2	0	0
2010 Q3	271	0	0	1	1	43	49	0	0	0
2010 Q4	202	0	0	0	1	53	12	0	0	0
2011 Total	675	0	0	9	1	124	37	1	0	0
2011 Q1	171	0	0	2	0	31	9	0	0	0
2011 Q2	195	0	0	2	0	58	6	0	0	0
2011 Q3	170	0	0	2	1	8	21	0	0	0
2011 Q4	139	0	0	3	0	27	1	1	0	0

Table L1. Violence against CBP BP Agents by Sector: Fiscal Years 2007 to 2011 (continued)

Fiscal Year/Quarter	Laredo, TX	Marfa, TX	Miami, FL	New Orleans, LA	Ramsey, PR	Rio Grande Valley, TX	San Diego, CA	Spokane, WA	Swanton, VT	Tucson, AZ	Yuma, AZ
2007	38	7	1	1	0	51	254	0	4	210	174
2008	44	0	0	2	0	78	377	0	3	255	76
2009 Total	118	3	2	3	1	111	252	0	0	261	50
2009 Q1	15	0	0	0	0	19	56	0	0	50	14
2009 Q2	30	2	2	1	0	30	48	0	0	62	11
2009 Q3	41	0	0	2	1	29	85	0	0	59	12
2009 Q4	32	1	0	0	0	33	62	0	0	90	13
2010 Total	50	2	1	1	0	93	130	0	1	421	32
2010 Q1	9	0	1	0	0	27	43	0	0	161	9
2010 Q2	11	1	0	1	0	34	38	0	1	74	8
2010 Q3	20	0	0	0	0	23	29	0	0	98	7
2010 Q4	10	1	0	0	0	9	20	0	0	88	8
2011 Total	26	3	0	3	4	108	77	0	0	251	31
2011 Q1	6	2	0	2	2	21	26	0	0	62	8
2011 Q2	11	0	0	1	0	27	24	0	0	63	3
2011 Q3	4	1	0	0	0	34	16	0	0	76	7
2011 Q4	5	0	0	0	2	26	11	0	0	50	13

Source: U.S. Department of Homeland Security, Enforcement Integrated Database (EID), BorderPatrol Enforcement Tracking System (BPETS), May 2012.

Table L2. Violence Against CBP OFO Officers by Field Office: Fiscal Years 2010 to 2011

Fiscal Year/Quarter	Total Nationwide	Atlanta, GA	Baltimore, MD	Boston, MA	Buffalo, NY	Chicago, IL	Detroit, MI	El Paso, TX	Houston, TX	Laredo, TX	Los Angeles, CA
2010, Total	110	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2010 Q1	32	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2010 Q2	28	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2010 Q3	23	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2010 Q4	27	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2011, Total	116	0	2	1	3	1	7	11	1	10	2
2011 Q1	21	0	0	0	1	1	1	2	0	4	0
2011 Q2	27	0	0	0	1	0	1	2	0	3	0
2011 Q3	24	0	1	0	1	0	2	4	0	1	1
2011 Q4	44	0	1	1	0	0	3	3	1	2	1

Table L2. Violence Against CBP OFO Officers by Field Office: Fiscal Years 2010 to 2011 (continued)

Fiscal Year/Quarter	New Miami, FL	New Orleans, LA	New York, NY	Portland, OR	San Diego, CA	San Francisco, CA	San Juan, PR	Seattle, WA	Tampa, FL	Tucson, AZ	Washington HQ/ Preclearance
2010, Total	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2010 Q1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2010 Q2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2010 Q3	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2010 Q4	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2011, Total	9	0	3	0	41	1	0	4	0	18	2
2011 Q1	1	0	0	0	6	0	0	1	0	3	1
2011 Q2	3	0	1	0	9	0	0	1	0	6	0
2011 Q3	1	0	1	0	8	0	0	0	0	4	0
2011 Q4	4	0	1	0	18	1	0	2	0	5	1

N/A Not Available.

Source: U.S. Department of Homeland Security, Customs and Border Protection (CBP), Office of Field Operations (OFO).



<b>Question#:</b>	13
<b>Topic:</b>	illegal entry 1
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Please describe exactly how DHS tracks metrics for outcome measure for illegal entry between points.

**Response:** Given the wide range of operational challenges and geographical differences along our border, and the types of resources deployed to support border security, CBP will continue to rely on multiple output and outcome measures to determine the state of border security and assess progress in improving upon that state. The Border Patrol is working to expand this suite of measures to include more outcome metrics. Some long-term outcome measures have already been developed and are publicly reported in the quarterly Border Security Status Report.

**Question:** To the extent possible, please provide us with summary data for the following metrics (as well as any supporting data used to create it) for the most recent fiscal year: number of attempted illegal entries, number of apprehensions, the apprehension rate, and the number of successful entries.

**Response:** The chart below contains summary data for the requested information for Fiscal Year 2013.

**USBP Southwest Border Interdiction Effectiveness by Corridor  
FY 2013**

*Apprehension Data includes Deportable Aliens Only*  
Data Source: EID, GPRA (Unofficial) as of 10/09/13

Corridor	Attempted Illegal Entries*	Apprehensions in AOR	Successful Entries**
California	57,298	41,060	6,414
Arizona	201,360	122,720	36,742
New Mexico/West Texas	27,204	11,730	3,269
South Texas	430,845	218,649	122,542
<b>SBO Total</b>	<b>716,707</b>	<b>394,159</b>	<b>168,967</b>

<b>Question#:</b>	14
<b>Topic:</b>	illegal entry 2
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Please describe exactly how DHS tracks the number of illegal entries at ports of entry.

**Response:** ‘Illegal entries’ is not a data point associated with U.S. Customs and Border Protection’s (CBP) activities and mission at our nation’s ports of entry (POEs), since all persons who present themselves at a POE go through a primary inspection for admission. Instead, CBP tracks inadmissible aliens at the ports in TECS and the Automated Targeting System. These are the principal systems used by CBP’s Office of Field Operations (OFO) to capture transactions that occur at the ports of entry.

**Question:** To the extent possible, please provide us with summary data for the following metrics (as well as any supporting data used to create it) for the most recent fiscal year: number of illegal entries, number of apprehensions, the apprehension rate, and the number of successful illegal entries.

**Response:** OFO conducts an extensive, statistically valid compliance examination (COMPEX) program at the POEs that is used to develop statistically valid estimates of the compliance of travelers with the laws, rules, and regulations enforced by CBP. After completing primary inspection processing, a randomly-selected sample of vehicles is chosen for referral to secondary inspection processing to verify compliance with all laws and regulations. For FY 2012, a COMPEX sample of 450,000 randomly selected vehicles was examined in secondary at the land border POEs. This sample size is selected to provide a 95% statistical confidence level in the results. The results from these examinations enables CBP to accurately estimate the overall compliance rate of the traveling public as well as the percentage of major (resulting in arrest or fines) and minor (all other) violations that were found in the sample (i.e., the violations that were not caught during primary inspection). These findings are then extrapolated to the entire population of travelers to estimate, with a 95% statistical confidence level, the compliance rate and the apprehension rate (the percentage of violations that are caught).

Aliens who present themselves for entry at a port and are inadmissible for legal entry into the United States are either turned back or detained for additional processing. For FY 2012, OFO had a 97.55% apprehension rate for admissibility (that is, CBP stopped 97.55% of the inadmissible aliens attempting to enter at the SWB POEs). In FY12, a total of 195,934 inadmissible aliens were stopped at POEs.

<b>Question#:</b>	15
<b>Topic:</b>	DHS metrics tracking
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Please describe exactly how or whether DHS tracks metrics for the following items—visa overstays, illegal immigrant residents in the United States, voluntary departures of illegal immigrants, law enforcement removal of illegal immigrants, the number of deaths and/or adjustments, and/or the number of new H2A and H2B visas issued. To the extent possible, provide any summary (and supporting) data for those metrics.

**Response:** U.S. Immigration and Customs Enforcement’s (ICE) Office of Enforcement and Removal Operations (ERO) statistics focus on enforcement metrics for aliens who have been removed. This includes aliens who have been granted voluntary departure, have been removed, or are currently in removal proceedings. Removal statistics account for both immigrant and nonimmigrant violations of the Immigration and Nationality Act (INA), including aliens who have overstayed their authorized period of admission.

In fiscal year (FY) 2013:

- ICE removed 368,644 illegal aliens—
  - 216,810 (59 percent) of all removals were previously convicted of a crime;
    - 110,115 (51 percent) of the criminal removals were apprehended in the interior of the United States; and
    - 106,695 (49 percent) of the criminal removals were apprehended at the border while attempting to unlawfully enter the United States.
  - 151,834 of all removals (41 percent) were previously without a criminal record;<sup>1</sup>
    - 144,242 of removals (95 percent) without a criminal record met one or more of ICE’s stated civil immigration enforcement priorities; and
    - 128,398 of removals (84 percent) without a criminal record were apprehended at the border while attempting to unlawfully enter the United States.
  - 235,093 of all removals (64 percent) were apprehended along our borders while attempting to unlawfully enter the United States.<sup>2</sup>

<b>Question#:</b>	15
<b>Topic:</b>	DHS metrics tracking
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

- 133,551 of all removals (36 percent) were apprehended in the interior of the United States; and
- 360,313 of all removals (98 percent) met one or more of ICE's stated civil immigration enforcement priorities.<sup>3</sup>

There were nine alien deaths in ICE custody. ERO does not monitor alien deaths outside of ICE custody in FY 2013.

As the Department of State (DOS) is charged with visa issuance, ICE respectfully defers to DOS for data regarding H2A and H2B visa issuance.

As adjustment of status is adjudicated by the Executive Office for Immigration Review (EOIR), ICE respectfully defers to EOIR for data regarding adjustments.

Regarding illegal immigrant residents in the United States, the Office of Immigration Statistics/Policy releases annual estimates of the unauthorized immigrant population residing in the United States (see <http://www.dhs.gov/estimates-unauthorized-immigrant-population-residing-united-states-january-2011>).

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<sup>1</sup> ICE defines criminality via a recorded criminal conviction obtained by ICE officers and agents from certified criminal history repositories. The individuals described above include recent border crossers, fugitives from the immigration courts, and repeat immigration violators.

<sup>2</sup> Approximately 95 percent of these individuals were apprehended by U.S. Border Patrol agents and then processed, detained, and removed by ICE. The remaining individuals were apprehended by CBP officers at ports of entry.

<sup>3</sup> As defined in the March 2011 ICE Memorandum: Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens.

<b>Petition for a Non-Immigrant Worker (I-129) with a Classification of Temporary Agricultural Worker (H2A) or Temporary Non-Agricultural Worker (H2B)</b> <b>Total Approvals with the Number of Corresponding Beneficiaries</b> <b>Fiscal Year 2011 - 2013 (May)</b>						
Class Preference	2011		2012		2013 (May)	
	Approvals	Workers Approved	Approvals	Workers Approved	Approvals	Workers Approved
H2A/H2B	7,659	125,520	9,287	154,576	8,097	136,138
H2A	4,138	59,326	5,736	87,775	4,605	70,002
H2B	3,521	66,194	3,551	66,801	3,492	66,136

Report created: August 15, 2013 and database queried: July 1, 2013

System CIS Consolidated Operational Repository (CISCOR)

Office of Performance and Quality (OPQ), Data Analysis and Reporting Branch (DARB) DL

Parameters:

Form Number I129

Approvals between 10/01/2010 and 05/31/2013

Class Preference = H2A, H2B

Please Note:

- 1) The report reflects the most up-to-date data available at the time the report is generated.
- 2) Duplicates and Rejections have been removed.

<b>Question#:</b>	16
<b>Topic:</b>	policies
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** I sent an inquiry to the Department about the need for CBP to show Congress and the American people that it was implementing policies to protect American citizens constitutional rights and civil liberties in its drone program. Can you please provide that policy to me?

**Response:** In September 2012, the Department of Homeland Security (DHS) established the *Privacy, Civil Rights and Civil Liberties UAS Working Group*, a Department-wide group co-chaired by the Office for Civil Rights and Civil Liberties, Privacy Office and U.S. Customs and Border Protection (CBP); representatives from other DHS Components participate in the Unmanned Aircraft Systems (UAS) Working Group. Specifically, the Working Group is charged with: 1) establishing a forum for DHS Components to discuss privacy and civil rights and civil liberties issues related to the Department's use and support of UAS and sensor technology; 2) ensuring that privacy and civil rights and civil liberties guidance and policies are reflected within the concept of operations for DHS UAS uses; 3) identifying potential privacy and civil rights and civil liberties concerns with respect to current or planned uses; and 4) promoting best practices for safeguarding privacy and civil rights and civil liberties in the use of UAS by DHS partners and grant recipients.

CBP is revising a draft Fair Information Practice Principles Privacy Impact Assessment (PIA) for its information collection technology, including UAS and associated sensor technology, that will be reviewed by the DHS Privacy Office. The PIA discusses CBP's several types of aircraft (both manned and unmanned) and the camera and sensor technology employed, commonly, on all. The PIA also discusses CBP's practices and procedures for sharing information obtained from the use of cameras and sensor technology deployed on aircraft. The final PIA will be signed by the acting Chief Privacy Officer and published on the Privacy Office website. We would be pleased to provide your staff a copy of the final PIA.

<b>Question#:</b>	17
<b>Topic:</b>	entry/exit system
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** S. 744 calls for establishing an entry/exit system for only air and sea ports before implementing the path to citizenship. Aside from costs, what impediments are there to instituting the system at land ports?

**Response:** The land border environment is considerably different from that of air and sea. First, the traveler volume is significantly higher and includes modes of transportation such as vehicles, trains, buses, ferries, bicycles, trucks, and pedestrians. In Fiscal Year 2012, more than 233.7 million travelers entered the United States at a land border while approximately 98.3 million travelers entered the country via air. There are also major physical infrastructure, logistical, and operational hurdles to overcome in order to perform the collection of an individual's biographic/biometric data upon departure at a land border. Specifically, land border ports of entry were not designed for U.S. Customs and Border Protection (CBP) to process outbound travelers in the same way that CBP processes inbound travelers, with many land ports of entry constrained by a limited number of outbound vehicle and pedestrian lanes. Additionally, biometric technologies that may prove effective in the air and sea environments may likely be ineffective at the land border where many travelers depart the United States using a wide variety of vehicles.

**Question:** Doesn't failure to require implementation of an entry/exit system at land ports, in addition to air and sea ports, roll back the requirements in current law, including those passed in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, a 20-year old law signed by President Clinton and the post-9/11 Enhanced Border Security and Visa Entry Reform Act of 2002, which together mandated a biometric entry/exit system at all air, sea and land ports?

**Response:** Failure to require implementation of an entry/exit system at land ports, in addition to air and sea ports, does not roll back the requirements in current law because those laws remain in force regardless of any new immigration legislation passed. The Department of Homeland Security (DHS) continues to develop entry/exit solutions at the air, sea, and land environments in order to meet the obligations of all laws passed mandating collection of exit data.

As part of the Beyond the Border Agreement with Canada, DHS and the Canadian Border Services Agency (CBSA) are partnering to create a biographical entry/exit system on our shared land border with Canada by exchanging entry information, so that

<b>Question#:</b>	17
<b>Topic:</b>	entry/exit system
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

information collected on entry to one country is automatically recorded as an exit from the other. This program was implemented across the entire shared U.S.-Canada border for all third country nationals (defined as non-U.S. citizens and non-Canadian citizens) on June 30, 2013 and will subsequently be expanded in accordance with the Beyond the Border plan.



<b>Question#:</b>	18
<b>Topic:</b>	UAS
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** In May 2012, the DHS OIG's office recommend that CBP postpone additional UAS purchases until it has improved its UAS mission plans to make sure that these resources are used appropriately. Have you postponed purchasing new drones?

**Response:** U.S. Customs and Border Protection (CBP) currently operates a fleet of 10 Unmanned Aircraft Systems (UAS). In its Fiscal Year (FY) 2012 update to Congress on the Strategic Air and Marine Plan (StAMP), CBP stated it intended to temporarily halt the acquisition of new systems so it can concentrate its efforts on refining the UAS's sensor capabilities, and the tactics, techniques, and procedures by which the sensors can be employed most effectively. In addition, the purchase of new Unmanned Aerial System (UAS) is dependent upon funding. A 2009 DHS Acquisition Decision Memorandum authorized the purchase of up to 24 total systems contingent on the availability of funds, and CBP last received funding – for the agency's ninth and tenth UAS – in the FY 2010 War Supplemental Appropriation.

No UAS purchases have been delayed based on the findings and recommendations in the Office of Inspector General (OIG) report. The OIG recommended that CBP postpone additional UAS purchases until CBP analyzed requirements and developed additional plans. CBP has completed the analysis, planning, and documentation to achieve its objectives for UAS acquisitions and operations. This analysis, planning, and documentation has enabled CBP to successfully acquire 10 systems, establish 4 launch and recovery sites, and complete nearly 7 years of successful operations.

**Question:** Have you addressed the OIG's offices recommendations from last year's report?

**Response:** CBP concurred with the 4 OIG recommendations in the subject report, and believes it has already taken the necessary actions to address them. OIG agreed CBP has sufficiently addressed the second recommendation, to develop and implement procedures to support and coordinate stakeholder mission requests, and has closed it accordingly. The status of the outstanding recommendations is as follows:

Recommendation 1: OIG recommends that the Assistant Commissioner, Office of Air and Marine: Analyze requirements and develop plans to achieve the UAS mission availability objective and acquire funding to provide necessary operations, maintenance, and equipment.

<b>Question#:</b>	18
<b>Topic:</b>	UAS
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

In the response to the draft report, CBP requested closure. The July 17, 2012 OIG Analysis of CBP's Response indicated CBP's comments do not appear to address the recommendation, which will remain open and unresolved until CBP provides specific documentation which details how it plans to achieve the UAS mission availability objective and acquire funding to provide necessary operations, maintenance, and equipment. CBP provided documentation and reiterated its request to close the recommendation in the 90-day update to the OIG. The documentation of the analysis and planning has enabled CBP to successfully acquire 10 systems, establish 4 launch and landing sites, and complete nearly 7 years of successful operations. In addition, CBP addressed the flight hour objective cited in the report, and discussed the funding process. Although the OIG agreed that the calculation of flight hours provided in its report may not represent the optimum usage, the recommendation remains open and unresolved.

**Recommendation 3:** OIG recommends that the Assistant Commissioner, Office of Air and Marine: Establish interagency agreements with external stakeholders for reimbursement of expenses incurred fulfilling mission requests where authorized by law.

CBP concurs with the intent of the recommendation, which is to establish an approach and procedure for reimbursement. CBP establishes interagency agreements (IAs) with government agency partners for resourcing efforts that fall outside the scope of our normal mission sets. These typically involve utilizing CBP unmanned aircraft to demonstrate new technologies, capabilities, and tactics. In the case of the Federal Emergency Management Agency, who has previously requested CBP UAS support, CBP has established a process where CBP receives reimbursement through a Mission Assignment document.

The July 12, 2012 OIG Analysis of CBP's Response indicated CBP comments appear to be responsive to the recommendation, which will remain open and unresolved until the OIG has received and evaluated the corrective action plan developed by DHS that addresses how CBP will obtain reimbursement for expenses incurred fulfilling mission request where authorized by law.

**Recommendation 4:** OIG recommends that the Assistant Commissioner, Office of Air and Marine, Postpone additional UAS purchases until recommendation #1 has been implemented.

<b>Question#:</b>	18
<b>Topic:</b>	UAS
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

Current Status: CBP believes that all of the conditions for the resolution of Recommendation #1 have been satisfied, Recommendation #4 should therefore be closed. CBP advised the OIG that UAS purchases were determined by available budgets. The DHS Acquisition Decision Memorandum, issued in early 2009, that authorized up to 24 complete systems, stipulated that reaching the approved end-state was contingent on the availability of procurement funding. The FY 2012 update of the Strategic Air and Marine Plan to Congress stated that additional UAS purchases were on hold to enable CBP to take full operational advantage of the existing 10 systems and to deploy and evaluate technologically advanced sensor systems along the borders. Consistent with the strategic plan, the President's FY 2014 Budget request does not contain funding for additional UAS or major end-items of support hardware.

<b>Question#:</b>	19
<b>Topic:</b>	cross border tunnels
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The OIG similarly identified challenges that CBP has faced identifying and mitigating cross border tunnels. We understand that you have resolved the OIG's recommendation from that report, but the OIG reported that there's been an 80 percent increase in cross border tunnel activity since 2008. Please update us on CBP's progress identifying and closing cross border tunnels.

**Response:** The Department of Homeland Security (DHS) Office of Inspector General's (OIG) tunnel report, titled CBP's Strategy to Address Illicit Cross-Border Tunnels, OIG-12-132 included four recommendations, two of which are assigned to U.S. Customs and Border Protection (CBP) and remain open.

Recommendation 1 was to conduct the planned study of how CBP can address tunnel detection capabilities through existing processes and procedures in support of the Analysis of Alternatives for the Tunnel Detection and Technology Program. CBP awarded the contract to conduct the planned study on August 31, 2012. The study is underway and its results will be used to determine how CBP will address tunnel detection capabilities through existing processes and procedures. The estimated completion date is September 2013. The OIG recommendation will remain open until OIG reviews how CBP has addressed its tunnel detection capabilities using the planned study's results.

Recommendation 2 was to complete the Preliminary Concept of Operations document describing how the identified capabilities need to function from a cross-component perspective to support the Analysis of Alternatives for the Tunnel Detection and Technology Program. CBP plans to complete the Preliminary Concept of Operations document with an expected approval date by September 30, 2013. The OIG recommendation will remain open until OIG reviews the approved Preliminary Concept of Operations document.

Ultimately, when we determine a need for material solutions to enhance our effectiveness, CBP will use the DHS Acquisition Lifecycle Guide process to develop and acquire those solutions. Any such approach will be contingent on funding availability, and delivered to identify and acquire tunnel detection technology solutions to fill capability gaps in the prediction of potential tunnel locations, the detection and project trajectory of suspected tunnels, the confirmation of and mapping of new tunnels, and facilitation of coordination among stakeholders. Once those technology solutions are in place, CBP has established processes to obtain necessary environmental assessments and

<b>Question#:</b>	19
<b>Topic:</b>	cross border tunnels
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
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<b>Committee:</b>	HOMELAND SECURITY (SENATE)

clearances and to expedite the contracting procedures to secure a vendor to close each tunnel. Tunnel closure typically occurs within 45 days of discovery.

Also, DHS's Science and Technology Directorate (S&T) has been working closely with CBP's Office of Technology Innovation and Acquisition (OTIA) to develop a Tunnel Detection Performance tool that will be a powerful analytical capability to determine detection system performance in specific border locations. The project is developing sensor models of all available tunnel detection technologies that will be run against actual geological and geophysical data collected from southwest border locations where tunneling is most prevalent. Available in early FY14, the performance tool will tell Border Patrol agents which tunnel detection devices will be most effective and where. The tool should enable more informed acquisition decisions of COTS tunnel detection sensors. S&T also intends to use the tool to perform additional tunnel detection sensor R&D.

<b>Question#:</b>	20
<b>Topic:</b>	FAST program
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The DHS OIG highlighted problems with the FAST program—showing that CBP has not evaluated the program’s impact on security. The DHS IG’s office reported that at least 5 drivers in the program were linked to drug smuggling. We understand that there are at least two unresolved OIG recommendations from their May 2012 report. What steps has CBP taken to close out those recommendations?

**Response:** The criminal violations cited in the Department of Homeland Security Office of Inspector General’s (OIG) report on recurrent vetting of enrolled Free and Secure Trade (FAST) drivers resulted because criminal history checks are only conducted during the initial application process or during renewal. Once every 24 hours, biographical data (name, date-of-birth, and gender) contained in the Global Enrollment System database of approved and conditionally approved participants is automatically submitted to U.S. Customs and Border Protection (CBP)-Enforcement Vetting System to check for active subject records, wants, and warrants determining their continued eligibility for the program.

The OIG report identified six drivers in the FAST program that were linked to drug smuggling and terrorism. The violations cited by the OIG were based on records in CBP’s TECS system. Those TECS records did not hit during the FAST program’s recurrent 24 hour vetting checks, because the TECS records were not flagged to hit during primary inspection. The information was entered for informational purposes.

OIG Report OIG-12-84 “Free and Secure Trade Program – Continued Driver Eligibility,” contained three recommendations with which CBP concurred. Recommendation 2 was closed by the OIG on April 22, 2013, as implemented. This recommendation was to develop and implement a process to recurrently verify the eligibility status of enrolled drivers by screening for derogatory information available to CBP that could render a driver ineligible for the FAST program. Although some FBI databases were excluded from this process by restrictions placed on their use, CBP implemented this recommendation to the extent consistent with law and policy.

CBP is taking the following action in relation to the two outstanding recommendations:

Recommendation 1: Coordinate with the Department of State and the Mexican government to develop an information exchange process to determine the eligibility of Mexican participants in the FAST program.

<b>Question#:</b>	20
<b>Topic:</b>	FAST program
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Current status:** Mexico does not have the infrastructure (no dedicated lanes, technology) to provide their members with inbound benefits. CBP will continue engaging Government of Mexico Officials to discuss the possibility of adding Mexican vetting to the FAST screening process.

**Recommendation 3:** Develop and implement a process for land ports of entry to assess and continuously monitor the effect of the FAST program on border security risk and implement remedial actions as needed.

**Current status:** CBP has drafted a comprehensive review of the FAST program. The review, once finalized, will be coordinated with the Canada Border Services Agency and will be used to implement improvements to the FAST program.

**Question:** Has CBP conducted a risk assessment of the FAST program?

**Response:** CBP is conducting an evaluation of the FAST program and anticipates that evaluation to be complete by the end of the year.

**Question:** Has CBP taken any steps to increase the frequency of security reviews for participants in the FAST program?

**Response:** CBP added criminal history checks to its recurrent vetting for trusted travelers. In doing so, the FBI's Criminal Justice Information Services Division (CJIS) concluded that CBP's use of Interstate Identification Index (III) information to conduct biographic criminal history checks during both initial and recurrent vetting checks on individuals applying for Trusted Traveler Programs is an unauthorized use of III and violates CJIS Security Policy. Since CBP is prohibited from using III information to conduct biographic criminal history checks, increasing the frequency of FAST participant reviews would not obtain different results.

<b>Question#:</b>	21
<b>Topic:</b>	high risk sections
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** One of the triggers in S. 744 requires “effective control” of the high risk sections of the border, which only includes 3 of the 9 border sectors. “Effective control” is defined as “persistent surveillance” and “an effectiveness rate of 90% or higher.” “Persistent surveillance” is not defined in the bill, and at a recent Judiciary Committee hearing, Secretary Napolitano acknowledged the effectiveness rate is problematic because, by definition, DHS has no idea how many border crossings go completely undetected. As a result, how do you expect to measure “effective control?”

**Response:** U.S. Customs and Border Protection’s (CBP) Office of Border Patrol places greatest priority on the highest risk areas of the border. Key outcomes of this focus include developing requisite situational awareness by massing resources within a geographic area that is traditionally high activity and high risk. This strategy, known as “deployment density,” seeks to ensure sufficient law enforcement capability to achieve an effectiveness rate of at least 90 percent in these areas.

The effectiveness rate, officially termed the interdiction effectiveness ratio, captures the Border Patrol’s ability to either apprehend or turn back subjects who attempt illegal entry into the United States between the ports of entry. This ratio is measured against detected entries. Deployment density enhances the situational awareness of the border area by allowing for persistent, not continuous surveillance. Accordingly, the ability to detect entries in a traditionally high activity, high risk area will improve as situational awareness improves.

In addition to developing required situational awareness capabilities via deployment density and targeting a 90 percent effectiveness rate, the Border Patrol also gauges its success along traditionally high activity, high risk sections of the border using other performance outcomes. This includes reducing recidivism and reducing the average number of recidivist apprehensions, which are two measures that have been reported publicly beginning in Fiscal Year 2013.

Situational awareness is also paramount in traditionally low activity, low risk areas. However, the use of deployment density in these regions is an expensive option. The Border Patrol will gain situational awareness in these areas through the use of geospatial intelligence. Geospatial intelligence can be described as gathering and analyzing imagery and geospatial information for the purpose of detecting change within specific geographical areas of the border environment. The result will be a heightened situational



<b>Question#:</b>	21
<b>Topic:</b>	high risk sections
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

awareness of illegal entries as well as a verification of a lack of illegal entries in a traditionally low activity, low risk area.

**Question:** What actions will CBP take to ensure “persistent surveillance” occurs at the border?

**Response:** The Border Patrol will determine which areas are high risk and which areas require persistent surveillance capability. Based on risk and current resources, the Border Patrol will determine which areas require persistent/fixed, mobile, and change detection surveillance capabilities.

<b>Question#:</b>	22
<b>Topic:</b>	border surveillance
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Tom A. Coburn
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** How does CBP currently measure border surveillance and effectiveness, and how are the requirements of the bill different than current practice under the Secure Fence Act of 2006, which requires operational control of all land, sea and air borders?

**Response:** U.S. Customs and Border Protection (CBP) relies on a suite of measures to evaluate performance toward border security outcomes. Each measure contributes additional data that when combined provide a more informed picture of the state of border security. These measures help inform decisions on deployments and resource allocations on a daily basis.

The Border Patrol is currently using a mathematical formula for the interdiction effectiveness rate that involves the following variables:

- *Apprehension:* A subject who, after making an illegal entry or found to be out of status, is taken into custody.
- *Turn Back:* A subject who, after making an illegal entry into the United States, returns to his or her country from which he or she entered from, not resulting in an apprehension or got away.
- *Got Away:* A subject who, after making an illegal entry, is not turned back or apprehended.
- *Total Entries:* The sum of all Apprehensions, Turn Backs, and Got Aways.

The interdiction effectiveness formula is:

$$\frac{\text{Apprehensions} + \text{Turn Backs}}{\text{Total Entries}} = \text{Rate of Effectiveness}$$

As CBP understands the proposed Border Security, Economic Opportunity and Immigration Modernization Act, it would require a 90 percent effectiveness rate. The Secure Fence Act defined Operational Control as “the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.” In the years since the creation of CBP, one of the main strategies of the Border Patrol was to transform its capabilities by deploying the right mix of personnel, technology, and infrastructure, as discussed in the 2004 Border Patrol National Strategy. Based on that experience, the Border Patrol is confident that the risk-based approach to border security is a more prudent approach.

**Post-Hearing Questions for the Record**  
**Submitted to the Honorable David F. Heyman, Kevin K. McAleenan, and Daniel H. Ragsdale**  
**From Senator Rob Portman**

**“Border Security: Examining Provisions in the Border Security, Economic Opportunity, and  
Immigration Modernization Act (S. 744)”**  
**May 7, 2013**

<b>Question#:</b>	23
<b>Topic:</b>	effective control
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Rob Portman
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The border control provisions in this bill include the Comprehensive Southern Border Security Strategy, the Southern Border Fencing Strategy, increased funding for surveillance equipment, and various other reports, requirements, and strategies aimed at securing our border. These measures focus primarily on the areas between ports of entry, with less focus on the ports of entry themselves. Even the definition of “effective control” of the border refers to wide areas between ports of entry. Many of the other elements of this bill dealing with legalization will surely have an impact on the ports of entry.

What additional resources would you prioritize to improve the operations at our ports of entry?

**Response:** Staffing is our first priority at the ports of entry. U.S. Customs and Border Protection’s (CBP) Office of Field Operations utilizes a workload staffing model as a decision-support tool, to help identify staffing levels and needs at ports of entry to ensure resources are aligned with mission requirements.

The Administration’s Fiscal Year (FY) 2014 budget submission, through direct appropriations and an increase in user fees, seeks to add 3,477 CBP officers to address the existing staffing requirements at the 329 ports of entry. The provisions of S. 744 are anticipated to have a significant impact on existing operations and staffing levels. However, the FY14 Budget request did not take Comprehensive Immigration Reform (CIR) into account. For outyear requirements, the capabilities of the model include the ability to determine staffing requirements to facilitate increases in volume or enforcement activities due to CIR as CBP anticipates an increase in travel as millions of individuals gain a legal status that will allow them to travel out of the U.S.

<b>Question#:</b>	23
<b>Topic:</b>	effective control
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Rob Portman
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** Does this bill help you develop strategies and procedures to predict and respond to the estimated impact of the legalization process on the ports of entry as millions of additional people receive the ability to lawfully enter/exit the U.S.?

**Response:** Yes, using OFO's Workload Staffing Model and data from the Office of Immigration Statistics and U.S. Citizenship and Immigration Services, we anticipate that we can estimate the impact on ports of entry resulting from an increase in individuals able to travel. To prevent increases to wait-times (particularly at land ports of entry along the southwest border), we project that the model will identify a need for more CBP officers.

<b>Question#:</b>	24
<b>Topic:</b>	RPI 1
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Rob Portman
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** I am concerned that the implementation of the provisions concerning eligibility for Registered Provisional Immigrant status of the adjudication of these claims at the operational level could make it more difficult for CBP officers to fulfill their enforcement responsibilities. According to the bill, an undocumented immigrant who has applied for RPI status cannot be deported, even if apprehended for an immigration violation and removal proceedings are ongoing. An undocumented immigrant is supposed to have 1 year to apply for RPI status, but the bill authorizes the Secretary to extend this period for an additional 18 months. During this potentially 2 and a half year period, DHS will likely be inundated with applications that they will be forced to adjudicate, creating a heavy workload. Furthermore, I am concerned that the vaguely defined “brief, casual, and innocent” exception to the U.S. residency requirement for prospective RPI’s would place a heavy burden on the officers adjudicating the claim and further lengthen the process. The resulting backlog could clog our system and allow many undocumented immigrants—some of whom with dangerous backgrounds—to remain in the country indefinitely until the backlog clears and their claim is adjudicated.

Are you concerned that vague eligibility requirements, an unclear application period, and the resulting backlog could create a system that is inefficient, subject to exploitation, and unable to adjudicate and damage CBP’s ability to carry out its border enforcement responsibilities?

**Response:** The requirements for Registered Provisional Immigrant (RPI) status, including the limitations on detention and removal are important aspects of immigration reform. We look forward to seeing how any proposal from the Senate or House proposes to address this issue, and will work with Congress on any such proposals.

**Question:** What steps would Customs and Border Patrol need to take to ensure it is ready to carry out the new regulations if enacted?

**Response:** There are numerous steps CBP would need to take to carry out enacted immigration reform legislation in its current form. These include, but are not limited to, developing regulations in close coordination with DHS components and other impacted agencies; hiring and deploying additional officers and agents in response to increased border crossings; coordinating with DHS components to develop RPI documents that are compatible with port of entry technology; updating and enhancing technology and facilities; developing and implementing officer/agent training; updating carrier training

<b>Question#:</b>	24
<b>Topic:</b>	RPI 1
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Rob Portman
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

and guides; providing outreach to internal and external stakeholders; ensuring the allocation of resources are available for the research, development, and eventual implementation of departure control technology at ports of entry; researching and developing border technology mandates included in the bill; and developing and employing statistically valid analyses and reporting mechanisms to comply with trigger measures in the bill.

<b>Question#:</b>	25
<b>Topic:</b>	RPI 2
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Rob Portman
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** A critical component to any attempt at immigration reform is internal enforcement. I am concerned that the same provisions on eligibility and enforcement that could complicate border security efforts could also weaken internal enforcement. An unclear application period of up to two and a half years for Registered Provisional Immigrant applications, an enormous influx of applicants, and the heavy burden on Immigration and Customs Enforcement officials to adjudicate vaguely-defined eligibility requirements could result in a backlog of cases that far outstrips ICE's ability to process them. In addition, the bill prohibits law enforcement from detaining or deporting undocumented immigrants with pending RPI applications and prohibits companies from firing them. These same companies that hired undocumented immigrants hoping to become RPI's also cannot be punished for hiring them illegally in the first place.

Can you explain how these provisions would impact ICE's ability to carry out effective internal enforcement?

The Department has a varied record in instituting IT systems and data sharing. What tools would be necessary to ensure your officers have the right information they need to do their job with these new requirements and processes?

**Response:** As with all changes in governing statutes, the bill may affect the manner in which U.S. Immigration and Customs Enforcement (ICE) allocates its resources to fulfill its statutory mission of enforcing the nation's immigration laws. The necessary allocation of resources is an important part of immigration reform. ICE is reviewing the recently passed Senate bill for potential impacts to agency enforcement programs, operations, and resources.

If the Senate bill is enacted, ICE will evaluate whether additional technological solutions are needed to support its efforts to enforce the nation's immigration laws. A cornerstone of ICE's information system modernization efforts has been the incorporation of technologies and standards to improve ICE's ability to share data.

<b>Question#:</b>	26
<b>Topic:</b>	E-Verify program
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Rob Portman
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The E-Verify program is an important tool for ensuring compliance with our nation's immigration laws and will play a crucial role in the apparatus proposed by this legislation. It would also require investment and substantial growth to the system. GAO previously identified problems with cost estimates for E-Verify growth and concerns about mitigating potential cost overruns.

What do you foresee as the greatest challenges in implementing the E-Verify requirements outlined in the bill?

**Response:** The USCIS E-Verify program stands ready to implement the E-Verify reforms in the bill. DHS looks forward to working with the Congress in ensuring that the necessary budgetary and personnel resources are provided to ensure that the program itself, along with the safeguards and oversight provisions of the bill, are implemented.



<b>Question#:</b>	27
<b>Topic:</b>	foreign visa applicants
<b>Hearing:</b>	Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744)
<b>Primary:</b>	The Honorable Rob Portman
<b>Committee:</b>	HOMELAND SECURITY (SENATE)

**Question:** The recent terrorist attacks in Boston highlight the importance of effective policies and procedures to screen foreign visa applicants. While every applicant should undergo a thorough background check regardless of their nation of origin, it seems logical that an applicant from a country or region with a history of instability, militancy, and radicalism should warrant especially careful review.

In your view, does the proposed legislation improve the Department's ability to review and monitor visa applicants from high-risk areas?

Are there any authorities or provisions absent from the bill that would make this task easier?

**Response:** The manner in which legislation deals with background checks of applicants for immigration benefits is an important part of immigration reform. We look forward to seeing how any proposal from the Senate or House proposes to address this issue, and will work with Congress on any such proposals.

**Post-Hearing Questions for the Record  
Submitted to Anne L. Richards  
From Senator Tom Coburn**

**“Border Security: Examining Provisions in the Border Security, Economic Opportunity,  
and Immigration Modernization Act (S. 744)”  
May 7, 2013**

1. At the hearing, we discussed putting together a “to do list” for the Department of Homeland Security to address the recommendations that your office has made regarding DHS border security and immigration enforcement work. Can you please provide the Committee with that list?

The enclosed attachment includes 51 open recommendations to DHS’ Office of Policy, CBP, ICE, the USCG, and USCIS from 17 audit and inspection reports related to border security and immigration enforcement. Implementing these recommendations would help DHS and the components continue the work needed to improve their programs. All of these recommendations are important, but we have identified three recommendations which should be given greater priority. Those three recommendations are:

<b>Report Number/Title</b>	<b>Recommendations</b>
OIG-12-85 CBP’s Use of Unmanned Aircraft Systems in the Nations Border Security	Analyze requirements and develop plans to achieve the UAS mission availability objective and acquire funding to provide necessary operations, maintenance, and equipment.
OIG-11-16 CBP’s Implementation of the Western Hemisphere Travel Initiative at Land Ports of Entry	Develop a strategy to facilitate the inspection of WHTI-noncompliant travelers for those ports where current staffing levels and infrastructure make it operationally unfeasible to process all WHTI-noncompliant travelers.
OIG-13-89 DHS’ H-60 Helicopter Programs	Direct U.S. Customs and Border Protection and the United States Coast Guard to complete the remaining U.S. Customs and Border Protection H 60 conversions and modifications at the United States Coast Guard Aviation Logistics Center.

2. If the comprehensive immigration reform bill were to become law, DHS would have many new and/or expanded responsibilities. Can you detail any specific challenges that you think DHS and its components would face in complying with the new law?

Through our audits, we have identified several persistent challenges that will affect DHS' and the components' ability to successfully manage new and expanded responsibilities. These challenges include:

DHS does not have strong, centralized, or enforceable high-level governance. For example, in *DHS' Oversight of Interoperable Communications* (OIG-13-05), we concluded that the Department did not establish an effective governing structure with the authority and responsibility to oversee its goal of achieving DHS-wide interoperability in radio communications.

The norm among DHS and its components continues to be "silos," which makes coordination and communication difficult. Among other challenges, this affects the Department's ability to plan strategically, properly manage acquisitions, and harmonize financial and other data systems. For example, in *CBP Acquisition of Aviation Management Tracking System* (OIG-12-104), we reported that although there was a joint strategy to unify its aviation logistics and maintenance system with that of the USCG, CBP planned to purchase a new, separate system without ensuring the system was compatible or could coordinate with the USCG's already operational system.

DHS has limited reliable program and financial data, which makes it difficult to make well-informed and cost-effective management decisions, plan programs and budgets effectively, and determine its resource requirements. For example, in *CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security* (OIG-12-85), we determined that CBP needs to improve planning of its unmanned aircraft system program to address its level of operation, program funding, and resource requirements, along with stakeholder needs. These improvements will require reliable data.

DHS does not have adequate, well-defined performance measurements to ensure that it can analyze program effectiveness and outcomes to determine whether it is meeting its mission goals and objectives.

The legislation also requires USCIS to undertake various visa processing-related activities for new types of benefits. USCIS collects revenue from visa application fees to fund its operations, including hiring and training adjudicators to evaluate benefit applications. Without upfront or seed money to properly plan for the new workload, including hiring and training additional adjudicators, USCIS will face major difficulties accomplishing its new workload in a timely manner. Further, without proper resources to train additional adjudicators, USCIS faces increased risks of inefficient and ineffective reviews of visa benefit applications. Ineffective adjudication of these applications leads to increased risk of fraud and national security issues.

3. Can you provide recommendations for what steps DHS could take to address the potential challenges associated with implementing the law?

**Leadership Vacancies:** CBP needs to have permanent leadership. CBP has not had a Presidentially appointed and Senate confirmed Commissioner since the beginning of 2009. Having a confirmed Commissioner will assist CBP to achieve the mandates of the legislation.

**Acquisitions:** Any acquisitions associated with the bill will need to have well-defined life cycle plans and sufficient research and study to ensure that DHS and the components are buying the right equipment to accomplish their missions.

**Personnel:** The Department must have a well-defined hiring plan to make certain that it is getting effective people with the right skills and has adequate training resources. Past efforts to bring on large numbers of personnel resulted in significant problems.

**Timeframes:** The timeframes for implementing the bill's requirements are very constrained and may result in not having the proper amount of time to buy the right equipment, hire the right people, and establish life cycle requirements.

DHS OIG-issued reports on Border Security and Immigration, FY 2005-FY 2013 (As of 5/28/2013)								
Item Number	Component	Report Number	Report Issued Date	Report Title	Rec #	Recommendation	Status	Resolved Date
1	ICE	OIG-10-22	12/3/2009	Release of the U.S. Immigration and Customs Enforcement's Worksite Enforcement Strategy	1	Revise policies related to the safeguarding of ICE's law enforcement sensitive information to clarify designation removal authorities, as well as procedures and processes for designation removal determinations, including superseding designation determinations.	Open-Resolved	5/3/2010
2	CBP	OIG-11-16	11/29/2010	Customs and Border Protection's Implementation of the Western Hemisphere Travel Initiative at Land Ports of Entry	2	Develop a strategy to facilitate the inspection of WHTI-noncompliant travelers for those ports whose current staffing levels and infrastructure make it operationally unfeasible to process all WHTI-noncompliant travelers.	Open-Unresolved	
3	CBP	OIG-11-16	11/29/2010	Customs and Border Protection's Implementation of the Western Hemisphere Travel Initiative at Land Ports of Entry	3	Finalize and issue WHTI full enforcement operational guidance that includes minimum inspection requirements and specific procedures that CBP officers must follow to process WHTI-noncompliant travelers and to establish their identity and citizenship.	Open-Unresolved	
4	USCG	OIG-11-16	11/29/2010	Customs and Border Protection's Implementation of the Western Hemisphere Travel Initiative at Land Ports of Entry	4	Establish a firm target date for moving from informed compliance to full enforcement of WHTI land document requirements.	Open-Unresolved	
5	CBP	OIG-11-43	2/11/2011	Customs and Border Protection Needs to Improve Its Inspection Procedures for the Western Hemisphere Travel Initiative	2	Update the Inspector's Field Manual to incorporate the revised WHTI enforcement procedures.	Open-Unresolved	
6	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	2	Prioritize hiring a permanent director and mental health staff. This should include maximizing the use of available hiring incentives, and minimizing processing delays to the extent practicable.	Open-Resolved	4/1/2011
7	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	4	Place detainees with mental illnesses in facilities that have necessary space and resources available to provide needed services. At a minimum, such facilities should maintain appropriate areas for specialized treatment, and be accessible to community providers.	Open-Resolved	4/1/2011
8	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	6	Establish procedures for timely evaluating and transferring detainees requiring separation or isolation for mental health conditions, but who are in facilities that cannot accommodate such needs.	Open-Resolved	4/1/2011
9	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	7	Identify detention facility sites with minimal or no community resources, and develop IHS mental health resources as needed to ensure the availability of proper care.	Open-Resolved	4/1/2011

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**DHS OIG-issued reports on Border Security and Immigration, FY 2005-FY 2013  
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Item Number	Component	Report Number	Report Issued Date	Report Title	Rec #	Recommendation	Status	Resolved Date
10	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	8	Establish a classification system for detention facilities that takes into consideration the facilities' ability to handle detainees with varying mental health needs.	Open-Resolved	4/1/2011
11	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	9	Direct field offices to request mental health information for incarcerated aliens before they arrive in detention, and establish a requirement for sending the information to medical personnel before detainees arrive in ICE detention.	Open-Resolved	4/1/2011
12	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	12	Assign IHSC case managers in field positions to provide direct oversight and advice to ICE field and sub-offices, and expedite transfers of mentally ill detainees.	Open-Resolved	4/1/2011
13	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	13	Establish protocols for retaining and sharing mental health information in Alien registration files. At a minimum, protocols should include: requirements for documenting detainees' mental health status to be used by Enforcement and Removal Operations officers and ICE attorneys; and, guidance for ensuring detainees' privacy rights.	Open-Unresolved	
14	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	14	Publish guidance on eligible custodians.	Open-Unresolved	
15	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	15	Publish internal procedures for handling cases where custodians must be used for mentally incompetent detainees.	Open-Unresolved	
16	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	16	Develop and implement guidance that outlines the process and criteria for using specialty facilities.	Open-Resolved	4/1/2011
17	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	17	Include the use of psychiatric-mental health nurses in formal staffing plans.	Open-Resolved	4/1/2011
18	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	18	Expand the use of tele-psychiatry to those facilities located in areas with limited access to psychiatrists.	Open-Resolved	4/1/2011
19	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	19	Establish procedures to ensure that tele-psychiatry is used efficiently. At a minimum, this should include a review of current tele-psychiatry connections, equipment, and any overlaps with existing mental health services.	Open-Resolved	4/1/2011
20	ICE	OIG-11-62	3/28/2011	Management of Mental Health Cases in Immigration Detention	20	Expedite efforts to develop and implement an electronic medical record system.	Open-Resolved	4/1/2011

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**DHS OIG-issued reports on Border Security and Immigration, FY 2005-FY 2013  
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Item Number	Component	Report Number	Report Issued Date	Report Title	Rec #	Recommendation	Status	Resolved Date
21	ICE	OIG-11-81	5/10/2011	Supervision of Aliens Commensurate with Risk	1	Enforce current policy and procedures for screening aliens against the NCIC prior to release, and develop procedures to ensure that personnel comply with the policy.	Open-Resolved	5/10/2011
22	ICE	OIG-11-81	5/10/2011	Supervision of Aliens Commensurate with Risk	2	Revise ICE's current policy to require officers to conduct TAC screenings for all aliens from SDCs, not just those held in ICE detention facilities.	Open-Unresolved	
23	USCIS	OIG-11-85	5/24/2011	U.S. Citizenship and Immigration Services Privacy Stewardship	4	Enforce the consistent implementation of physical security standards.	Open-Unresolved	
24	ICE	OIG-11-119	9/30/2011	The Performance of 287(g) Agreements FY 2011 Update	8	Assess the current MOA to identify language that does not (1) clearly specify program requirements or (2) provide a measurable standard for assessing compliance.	Open-Resolved	9/3/2011
25	ICE	OIG-11-119	9/30/2011	The Performance of 287(g) Agreements FY 2011 Update	9	Develop MOA language that clearly specifies program requirements, provides a measurable standard for assessing compliance, and eliminates the need to interpret program requirements.	Open-Resolved	9/30/2011
26	ICE	OIG-12-64	3/27/2012	Operations of United States ICE's Secure Communities	1	Develop procedures to eliminate duplication in the identification process. If necessary, develop short-term and long-term procedures.	Open-Resolved	3/27/2012
27	ICE	OIG-12-64	3/27/2012	Operations of United States ICE's Secure Communities	2	Develop procedures and system controls to ensure that officers complete all records for individuals identified through Secure Communities.	Open-Resolved	3/27/2012
28	ICE	OIG-12-66	3/27/2012	Communication Regarding Participation in Secure Communities	1	Immediately compose and release thorough guidance and criteria that specifically outline the intent and expectations of Secure Communities. The guidance should specify which aspects of Secure Communities are optional for States and local law enforcement agencies.	Open-Unresolved	
29	ICE	OIG-12-66	3/27/2012	Communication Regarding Participation in Secure Communities	2	Coordinate with the Department of Homeland Security to establish protocols to ensure that the Department and United States Immigration and Customs Enforcement senior leadership provide the necessary direction, guidance, oversight, and support for the intent and implementation of new immigration enforcement programs.	Open-Unresolved	

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**DHS OIG-issued reports on Border Security and Immigration, FY 2005-FY 2013  
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Item Number	Component	Report Number	Report Issued Date	Report Title	Rec #	Recommendation	Status	Resolved Date
30	ICE	OIG-12-66	3/27/2012	Communication Regarding Participation in Secure Communities	3	Generate a lessons learned document and plan for the Department of Homeland Security to use when guiding future immigration and enforcement program development and implementation.	Open-Unresolved	
31	CBP	OIG-12-84	5/21/2012	Free and Secure Trade Program - Continued Driver Eligibility	1	Redaction not shown. Coordinate with the Department of State and the Mexican government to determine the eligibility of Mexican participants in the FAST program.	Open-Unresolved	
32	CBP	OIG-12-84	5/21/2012	Free and Secure Trade Program - Continued Driver Eligibility	3	Develop and implement a process for land ports of entry to assess and continuously monitor the effect of the FAST program on border security risk and implement remedial actions as needed.	Open-Unresolved	
33	CBP	OIG-12-85	5/30/2012	CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security	1	Analyze requirements and develop plans to achieve the UAS mission availability objective and acquire funding to provide necessary operations, maintenance, and equipment.	Open-Unresolved	
34	CBP	OIG-12-85	5/30/2012	CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security	4	Postpone additional UAS purchases until recommendation #1 has been implemented.	Open-Unresolved	
35	USCIS	OIG-12-125	9/19/2012	U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements Program Issues	1	Implement a process to compile and track SAVE benefit applicant requests and referrals.	Open-Resolved	12/17/2012
36	USCIS	OIG-12-125	9/19/2012	U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements Program Issues	2	Implement a process for SAVE database owners to report to the Verification Division whether changes to SAVE benefit applicant records were made.	Open-Resolved	12/17/2012
37	ICE	OIG-12-130	9/26/2012	The Performance of 287(g) Agreements FY 2012 Follow-Up	1	Provide the Office of Professional Responsibility with the classification study results by December 31, 2012.	Open-Unresolved	
38	ICE	OIG-12-130	9/26/2012	The Performance of 287(g) Agreements FY 2012 Follow-Up	2	If needed, develop a transition plan to complete any reclassification efforts during FY 2013.	Open-Unresolved	
39	CBP	OIG-12-132	9/26/2012	CBP's Strategy to Address Illicit Cross-Border Tunnels	1	Conduct the planned study of how CBP can address tunnel detection capabilities through existing processes and procedures in support of the Analysis of Alternatives for the Tunnel Detection and Technology Program.	Open-Resolved	8/2/2012

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(As of 5/28/2013)**

Item Number	Component	Report Number	Report Issued Date	Report Title	Rec #	Recommendation	Status	Resolved Date
40	CBP	OIG-12-132	9/26/2012	CBP's Strategy to Address Illicit Cross-Border Tunnels	2	Complete the planned Concept of Operations document describing how the identified capabilities need to function from a cross-component perspective to support the Analysis of Alternatives for the Tunnel Detection and Technology Program.	Open-Resolved	8/2/2012
41	Policy	OIG-13-07	11/2/2012	The Visa Waiver Program	1	We recommend that the Office of Policy communicate to Department of State and foreign officials the compliance standards and the criteria used to assess compliance.	Open-Unresolved	
42	Policy	OIG-13-07	11/2/2012	The Visa Waiver Program	2	We recommend that the Office of Policy develop and implement an overall reporting process that will satisfy the 2-year reporting timeframe for Congress to receive information regarding the status of VWP participating countries.	Open-Unresolved	
43	Policy	OIG-13-07	11/2/2012	The Visa Waiver Program	3	We recommend the Office of Policy staff the VWPO at a level to maximize its effectiveness in assessing VWP countries' compliance with program requirements.	Open-Unresolved	
44	Policy	OIG-13-07	11/2/2012	The Visa Waiver Program	4	We recommend that the Office of Policy assign the VWPO to an organization that will provide an effective management structure.	Open-Unresolved	
45	USCIS	OIG-13-11	11/20/2012	Improvements Needed for SAVE to Accurately Determine Immigration Status of Individuals Ordered Deported	2	We recommend that USCIS develop an automated interface that will result in SAVE accurately reflecting the immigration status of individuals who have lost status as a result of a final removal order or expiration of time permitted to file an appeal.	Open-Resolved	10/29/2012
46	USCIS	OIG-13-11	11/20/2012	Improvements Needed for SAVE to Accurately Determine Immigration Status of Individuals Ordered Deported	3	We recommend that USCIS conduct periodic evaluations to validate the accuracy of SAVE initial verification.	Open-Resolved	10/29/2012
47	USCIS	OIG-13-11	11/20/2012	Improvements Needed for SAVE to Accurately Determine Immigration Status of Individuals Ordered Deported	4	We recommend that USCIS analyze the periodic evaluation results to determine whether SAVE is at risk of verifying other populations erroneously.	Open-Resolved	10/29/2012
48	CBP	OIG-13-09	5/17/2013	DHS' H-60 Helicopter Programs	1	Establish and charter a formal department level Aviation Management Council to provide governance and oversight of departmental aviation assets, which includes a senior level position with direct authority and accountability over all Department of Homeland Security aviation programs.	Open-Unresolved	

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DHS OIG-issued reports on Border Security and Immigration, FY 2005-FY 2013 (As of 5/28/2013)								
Item Number	Component	Report Number	Report Issued Date	Report Title	Rec #	Recommendation	Status	Resolved Date
49	CBP	OIG-13-89	5/17/2013	DHS' H-60 Helicopter Programs	2	Direct U.S. Customs and Border Protection to apply all the requirements of the Acquisition Life Cycle Framework established through Management Directive 102 01 to each individual program or project within its Strategic Air and Marine Plan.	Open- Unresolved	
50	CBP	OIG-13-89	5/17/2013	DHS' H-60 Helicopter Programs	3	Initiate discussions to obtain departmental ownership of U.S. Customs and Border Protection H 60 helicopters from the United States Army.	Open- Unresolved	
51	CBP	OIG-13-89	5/17/2013	DHS' H-60 Helicopter Programs	4	Direct U.S. Customs and Border Protection and the United States Coast Guard to complete the remaining U.S. Customs and Border Protection H 60 conversions and modifications at the United States Coast Guard Aviation Logistics Center.	Open- Unresolved	

Total Open Reports: 17  
Total Open Recommendations: 51

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**Submission for the Record****“Border Security: Examining Provisions in the Border Security, Economic Opportunity,  
and Immigration Modernization Act (S. 744)”  
May 7, 2013**

During the May 7, 2013 hearing before the Senate Homeland Security and Governmental Affairs Committee entitled, “Border Security: Examining Provisions in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744),” Senator McCain asked Anne Richards, Assistant Inspector General for Audits at the Department of Homeland Security Office of Inspector General, the following question and asked that she respond in writing for the record:

**Question: Can you give the Committee information in writing about how the Department can improve performance measures on the border?**

**Answer:** The Department of Homeland Security (DHS) faces challenges in balancing the need to secure the U.S. borders to prevent the illegal entry of persons and contraband while at the same time facilitating legitimate trade and travel. Through our audits and reviews, we have identified a number of challenges that DHS must overcome to secure our borders and establish effective immigration policies and processes.

Clearly defined and effective performance measures are critical to ensure that border security efforts are not compromised and to assess the risks associated with the various programs designed to facilitate improved trade such as Customs and Border Protection’s Free and Secure Trade program (FAST), Customs-Trade Partnership Against Terrorism (C-TPAT); and passenger processing such as Global Entry, Western Hemisphere Travel Initiative (WHTI) and the NEXUS alternative inspection programs. While DHS has several programs designed to mitigate risks and provide expedited travel and trade for pre-approved, low risk travelers and trade partners, questions remain concerning the performance of the various programs. Our reports on some of these programs identify data reliability problems, including incomplete data.

In addition to the programs identified above, we have noted other areas where performance measurement is needed. One good example is CBP’s use of Unmanned Aircraft Systems (UAS). The Department did not establish a planned baseline of use or specific outcome measures for the UAS. We were unable to determine if the UAS program was operating as planned, because there were no measures identified and CBP was using anecdotal information to justify the program. To ensure the program is operating effectively, CBP needs to develop tactical planning including the number of aerial vehicles, pilots, ground support equipment, flight deployment challenges, fuel, repair and parts are critical to determine realistic mission availability—which is a key performance measure to ensure that the percent of deployments that met established mission deployment goals.

Further, as we have reported, it is difficult to fully assess program performance without establishing valid baseline requirements in key foundation documents at the program start. DHS needs to further strengthen its acquisition, information technology, financial and human capital management functions. Moving forward, DHS needs to validate required acquisition documents in a timely manner, and demonstrate measurable progress in meeting cost, schedule, and performance metrics for its major programs.

The following types of concerns should be addressed when implementing a performance measurement system.

- Specific and Measurable – Measures should be designed to define clearly the program’s purpose, roles, and responsibilities – Who will design, monitor and implement the performance measurement process? What metrics will be needed to ensure success? How can we validate the results? Some examples include staff readiness to perform the mission, percentage of missions completed, utilization rates and goals, fleet hour costs and goals.
- Timeframes – Measures should identify a timeline or target date for completion or interim steps to meet the goal.
- Evaluating Performance – Who will independently review and analyze the program’s performance to ensure effectiveness?
- Reporting Requirements – How will the final work products be used (internally within the component offices, shared across the Department, shared outside of the Department)?

Competing and changing priorities and funding uncertainties will challenge the Department’s ability to address new immigration reform and border security initiatives. To evaluate performance against the metrics in the proposed legislation or complete certain steps in the legislation, the Department needs complete, accurate, and up-to-date information. Without the development, monitoring and review of specific, meaningful performance measures, DHS is at risk of having poorly defined requirements that negatively affect program performance and contribute to increased costs.